

SENATE—Friday, March 10, 1995*(Legislative day of Monday, March 6, 1995)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. ASHCROFT].

The ACTING PRESIDENT pro tempore. Dr. Richard C. Halverson, the beloved Chaplain of the Senate for the past 14 years, pastor to Senators and staff, and former pastor of the Fourth Presbyterian Church of Bethesda, MD, will lead us in the invocation.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And we know that all things work together for good to them that love God, to them who are the called according to his purpose.—Romans 8:28.

Eternal God, Ruler of history, Governor of the nations, we are unspeakably grateful for the political system inherited from those who founded this Nation. We thank Thee for their faith in a Creator God, the equality of all humans, and the conviction that the Creator endowed His creatures with inalienable rights which Government was to secure, receiving its authority from the consent of the governed.

In a day of instantaneous communication universally, the words and actions of national leadership are observed by the people as they are being said and done—instantly. Not uncommonly, they are misunderstood, or seen and heard out of context, which breeds misunderstanding, anger, and cynicism.

Mighty God, encourage Your servants to recover the vision of our founders, to seek wisdom from the Scriptures, and the guidance of God. May Thy blessing rest upon every person who labors so tirelessly in this vortex of rapid information through press, radio, and television. Cover their families with Your grace and love and protection, and remind them as often as necessary that, though they sought their office, their position has been ordained of God.

Gracious Father, thank you for the privilege of serving Your servants for all these years.

In the name of Jesus, the King of Kings and the Lord of Lords. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

RECESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes.

There being no objection, the Senate, at 10:04 a.m., recessed until 10:08 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

RICHARD C. HALVERSON, SENATE CHAPLAIN

Mr. DOLE. Mr. President, as the Acting President pro tempore noted, today marks the end of Dr. Richard Halverson's 14 years as Chaplain of the Senate.

Some people say that the Senate Chaplain has one of the best jobs in Washington. After all, whenever he speaks, all Senators are quiet. And that is a luxury we do not extend to anybody else.

I joined with many Senators in saluting Dr. Halverson when he announced his retirement last year. But I wish to take a minute this morning to once again thank Dr. Halverson for his service, his dedication, and his friendship. He should also be thanked for his patience and for agreeing to stay on for many months while we searched for someone to fill his shoes. And we look forward to Dr. Ogilvie's first official day as Chaplain on Monday.

I know that all Senators join me in wishing Dr. Halverson and his wife, Doris, many, many more years of health and happiness.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

CONGRATULATING DR. HALVERSON

Mr. NICKLES. Mr. President, I join with the majority leader in congratulating Dr. Halverson for his 14-plus years of service to the U.S. Senate, not only to the Senate as a body but to each and every Member of this group of Senators, and also to each and every member of the entire Capitol complex. I have had the pleasure of watching, working with, and worshipping with Dr. Halverson, and in his presence he emanates love. He emanates love in his actions, in his words, and by his presence. He has been a mentor to me and countless others, but also to our staffs and to the elevator operators and to the interns and to the pages. He has shown his love by his actions, and we have really been blessed by his presence. For his years of service we are very grate-

ful. Many of us are eternally grateful, and we thank him for that.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

TRIBUTE TO THE REVEREND RICHARD C. HALVERSON

Mr. HEFLIN. Mr. President, our Senate Chaplain, Dr. Richard C. Halverson, our dear friend, is retiring today and has delivered his last official prayer. He has been a great Chaplain. During his tenure, Dr. Halverson has proved himself over and over again, not only to be a comforting spiritual guide but also a wonderful friend and adviser to the entire Senate family, which includes all of its workers: elevator operators, the police, the pages, the waitresses, the waiters, the electricians. Every conceivable worker has in some way or form felt his influence. His ministering support has been helpful to us immeasurably as we wrestled with difficult personal, political, and policy issues.

While he is not a Catholic and I am not a Catholic, it seems to me that the Catholic Church has a title that is befitting Dr. Halverson, and that is "Father." He is father of the entire Senate family and we want to wish him well.

The Chaplain of the Senate is one of its 5 officers, and probably its most visible. Many people around the country watch as he opens the Senate's day with a prayer, or introduces the guest Chaplain to conduct the prayer. Dr. Halverson has been superb at arranging for guest Chaplains, thereby giving wide representation to the many diverse religious denominations in our Nation. As Chaplain, he has provided pastoral services to Members and our staffs, most of whom are far away from their own churches and ministers as well as to the entire Senate family. His soothing countenance and understanding manner have made us feel more at home here in the Senate.

Beginning his service on February 2, 1981, the Reverend Dr. Richard Halverson is the 60th Senate Chaplain. A native of North Dakota, he is a graduate of Wheaton College and the Princeton Theological Seminary. He has been awarded honorary doctoral degrees by Wheaton and Gordon Colleges, and has served churches in Kansas City, MO; Coalinga and Hollywood, CA; and for 23 years at his last pastorate at the Fourth Presbyterian Church in Bethesda, MD.

Dr. Halverson has been deeply involved as an associate in the International Prayer Breakfast movement in Washington, and I have had the personal pleasure of working with him

since coming to the Senate. He has been active with this prayer breakfast for almost 40 years. He has served as chairman of the board of World Vision and president of Concern Ministries. He has authored several books, including "A Day at a Time," "Be Yourself . . . and God's," "Between Sundays," "No Greater Power," and "We the People."

He has traveled extensively through his associations with World Vision, the prayer breakfast movement, and pastors' and leaders' conferences in Asia, Australia, South America, Africa, and Europe.

Mr. President, Dick Halverson is an outstanding example of why the Senate has always had a Chaplain. He has been completely devoted to the Senate and we are grateful for his many years of service. We sincerely appreciate him, we will miss him, and we wish him and his wonderful wife, Doris, all the best as they move on to a well-deserved retirement. Dr. Halverson has left his mark on this body, and it will not be the same without him. The Senate is better for having had his guidance and wisdom for 14 years.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

THANK YOU, DICK HALVERSON, ON BEHALF OF ALL OF US

Mr. DOMENICI. Mr. President, the Book of Sirach, as I interpret it, tells us that from what comes out of our lips we will know what is in our hearts. Frankly, I want to say that there can be no doubt what is in Dick Halverson's heart. For he has the kindest, most loving words at his lips for everyone, all the time, of anybody I have ever known. He has been a personal spiritual influence on this Senator and many others. And that is not all. The people of this place were all part of his mission. I do not think it should go unnoticed that, instead of just Senators saying some kind remarks that he is entitled to, that there are many around the Senate who wish they could be here so they could say thank you.

I do not know how to do that, really, on behalf of all of them, but at least I will try, and say: Dick, we love you. We think you are one of the finest things that ever happened to this place. I hope that I speak for the thousands of non-Senators that you chose to help, of all religions, all creeds, all walks of life. Thank you very much.

I yield the floor.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

THE EXAMPLE OF CHAPLAIN RICHARD C. HALVERSON

Mr. NUNN. Mr. President, echoing the remarks of my friend from New Mexico, I think it would truly be a unique hour in the history of the Senate if we could let the policemen and the maids and the janitors come up for

an hour and talk about Dick Halverson.

None of us could express what this whole family of the Senate would say about this wonderful man who is a devoted follower of Jesus and who lives that example every day, more so than any person I have ever observed in my life; and whose religion is not only through the spoken word, but most of all through example.

Benjamin Franklin, who first suggested that sessions of the then-Continental Congress be opened with prayer, once said that true human happiness is produced not so much by great pieces of good fortune that seldom happen, as by little advantages that occur every day.

The Members of the Senate have enjoyed such daily advantages—I would not really call them small—having been blessed over the past 14 years by the thoughtful opening prayers of the Chaplain of the Senate, Dr. Richard Halverson.

In all that time, Dr. Halverson has been a real pastor to the Senate as a whole, sharing our long sessions, agonizing with us at times of difficult decisions, and helping us wrestle with the great moral concerns of our Nation. He has been there for each of us from the majority leader to the policemen to the waiters, conscious of the special pressures of our responsibilities, and of the pressures those responsibilities place on our families. He has brought to his duties a deep compassion and a deep concern for the moral climate of our Nation. He has shared his knowledge of the Scriptures and the thoughts of great spiritual leaders through the ages from many faiths, bringing to our attention passages from books and poems and his own meditations that he thought would be helpful to us as a body, through his prayers and pastoral letters, and as individuals in a variety of thoughtful ways.

Before he came to minister to the Senate, Dr. Halverson ministered to Presbyterian congregations from the Midwest to Hollywood to Maryland. We have benefited from his long experience and understanding of human frailty and human needs, and of the capacity of human beings to be compassionate, wise, and courageous as well. A committed follower of Jesus who lives his beliefs, he has never tried to impose his personal beliefs, but has worked hard to help us live up to ours, and to help us find the wellsprings of moral and ethical action as legislators and leaders.

I would like to think I speak on behalf, as the Senator from New Mexico has, of everyone here, the thousands of people in the Senate family, when we say to Dick Halverson, our friend, our colleague, our mentor, our adviser, and most of all our example: Thank you and God bless you and your family.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

DR. HALVERSON, CHAPLAIN WITH AN OPEN HEART

Mr. CAMPBELL. Mr. President, I do not have a formal statement but I add my best wishes to Dr. Halverson. I am reminded that when Jesus was on the cross, he forgave a prostitute and a thief. I think there are very few people in the world that have hearts as open and as forgiving as Dr. Halverson.

Three years ago, in a discussion about crime, Dr. Halverson and I decided to try to bring some gang members to Washington on the day of the National Prayer Breakfast. So the next year we did, and this year was the second time we did that. We brought, as I remember, about 35 gang members. These are some pretty tough youngsters, the hoods, they are called, Crips and Bloods and Inca Boys and so on. We tried, through Dr. Halverson's leadership, to take them to the National Cathedral on the day of the Prayer Breakfast, and tried to show them a little different way of conducting their lives.

I know Dr. Halverson has that same attitude as Jesus himself, that there should be forgiveness in all of our hearts. No one is lost if you really try to help them.

I certainly wish him good luck. I want him to know that program he started now will be in its third year. I intend, with the help of my colleagues, to carry that on.

My best wishes.

I yield the floor.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

DR. HALVERSON, A BROTHER

Mr. STEVENS. Mr. President, Dr. Halverson is a good example of why we should think twice about term limits. These past 14 years have gone by so quickly for those of us who have participated in the Senate Prayer Breakfast weekly. I know many are here who have done that, who have gone on Wednesday morning. The one thing that really drew us to that was not our participation with our colleagues, but it was the magnet of Dr. Halverson. We have developed the concept of calling each other brother, and I really and truly feel a sense of being a brother to Dr. Halverson.

Many of us have come through periods of great strain in our lives while still serving in the Senate. If there has been one steady hand in this Senate to all of us, it has been Dick Halverson. In terms of just the camaraderie that surrounds the breakfast table on Wednesday morning, he always has something to add to really bring a little sparkle into life before the breakfast starts. Particularly, I recall, as Senator NUNN did, the times when we

would go around the table and ask if anyone knew of any person who was connected with the Senate who ought to be remembered in our prayers. And, invariably, Reverend Halverson would tell us of members of the staff or a member of the family of a member of the staff or a person who was formerly with the Senate, to bring back to us the reality of the world outside of the beltway, outside of, really, the formality of the Senate.

I cannot remember the number of times we have conferred about the Presidential Prayer Breakfast over the years. I really think one of the guiding forces that has kept that great institution going and made it so meaningful, as the Senator from Colorado said, to people beyond the scope of our lives, is Dick Halverson.

I suggested several years ago that we start inviting a representative from each of the State legislatures to come to the Presidential Prayer Breakfast and that has become meaningful, due to the work of Dr. Halverson and Doug Coe who, together, have brought so many people into the family of Christ, working together with us here in the Senate Prayer Breakfast.

We shall miss his leadership, not only here opening the Senate in the morning, but we shall miss his friendship as we pass one another in the hall and as he comes by at the lunch table, or as he just takes time to visit with us here on the floor.

I have seen Members of the Senate retire, and we have expressed here on the floor our regret. But this is a retirement that will affect each of our lives, I think. We look forward to his successor and developing a relationship with his successor. But in my life, and particularly in terms of my approach to religion as I see it, I shall miss the steady hand of Richard Halverson. And I regret deeply that the time has passed so fast.

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

THE REVEREND DR. RICHARD C. HALVERSON

Mr. LIEBERMAN. Mr. President, I am really honored to have the opportunity to join in an expression of gratitude and tribute and, really, thanks to Chaplain Halverson.

His presence has really enriched the 6 years that I have been privileged to be in the U.S. Senate—by the warmth and grace of his personality, by the strength of his faith, and by the profound depth of his humanity and kindness, the spirit of kindness which just emits from him all the time.

He also has reminded us, by his daily public words as Chaplain, of the words that are over the door to the Chamber, which are "In God We Trust." And he has reminded us, in the words of the Psalmist, that the honor that we have

been given here comes from the Lord. With that recognition, I think he has helped us proceed with more of both a sense of humility and a sense of purpose than we would otherwise have had.

Chaplain Halverson is a true student of both the Old and the New Testament. He is a son of both the Old and the New Testament. And I think in his life he has been an exemplar of the values that are contained in the aspirations that are expressed for those of us here in his daily life.

So I cannot thank him enough. I cannot tell him how much I hope we have the opportunity to stay in touch. And I can benefit from his counsel and personal warmth and strength.

I wish him all of God's blessings with his family in the years ahead.

I thank the Chair.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

THE REVEREND DR. RICHARD C. HALVERSON

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to add to the accolades that are being given this morning to a wonderful leader in the U.S. Senate, and they are well deserved.

I have been here a short time compared to many of my compatriots who are talking today. But when I came the first day, I remember getting an invitation from Reverend Halverson to come to the weekly prayer breakfast that the Senate holds. I must say, when I started going to those, I felt that was the one hour that we had together on a very bipartisan basis—Jewish Members, Catholic Members, Baptist Members, Episcopalian Members—all coming together to share a quiet moment in an otherwise sometimes stormy week.

It has made a difference in my service in the Senate, and I cannot imagine that we would have been so strong had we not had the leadership of Reverend Halverson telling us how very important it was for us to come together in this very bipartisan way to talk about the things that bring us together rather than the things that sometimes divide us on this floor.

I have heard Members who have been here for years talk about personal things that he has done for members of their staff who were in trouble. The personal testimonies are legion around here about this man.

We will all miss him. But we will all remember what a strong leader he has been and how much better off we are for having him among us.

So I know all of us wish him Godspeed, but not farewell, because we hope that he will be back many times in the future.

Thank you, Mr. President.

Mr. BURNS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

THE REVEREND DR. RICHARD C. HALVERSON

Mr. BURNS. Thank you, Mr. President.

Mr. President, it is a long way from Pingree, ND, to the Halls of the U.S. Senate. And I would like to just be a part of a book that could be written about this young man's life.

We sort of entered his life when we came here in 1989, and they say in every man's life or every person's life there has to be what we call in the West, in the corral, a snubbing post—something to latch onto, something that is permanent, that has value, and those values were drawn from the soils of the High Plains and Northern High Plains of this great country. I guess those sorts of personalities blend, and they grow together.

That is what happened when I met Dr. Halverson. Not only does he write the prayer and give the prayer for this body on a daily basis, but he is counselor to us all in the long hours, and to our staffs. All of us have experienced tragedies in our staffs' lives and in our personal lives, and he was there to be a minister.

That will not be forgotten by this family and by this man who stands among the peers in this body.

So we say "farewell," not "good-bye"—just farewell. We hope that he does not cut us out of his life. We hope he will come by and share some North Dakota stories with us.

And we wish him Godspeed.

I yield the floor.

A FOND FAREWELL TO REV.

RICHARD HALVERSON

Mr. COATS. Mr. President, in 1988, when I ran for reelection to the House of Representatives, I was, shortly after that both surprised and also very privileged to be considered for appointment to fill the vacancy created when Senator Dan Quayle was elected to the Vice Presidency. I was fortunate enough to receive that appointment to the Senate. I then resigned my House seat, and I was appointed to the Senate beginning in 1989.

I had several thoughts when that decision came down, but one of the very first thoughts that I had was the fact that I would have the privilege of serving in an institution in which Rev. Dick Halverson was Chaplain. We are fortunate to have been graduates of the same institution, Wheaton College.

I followed Chaplain Halverson's career as minister of the Fourth Presbyterian Church and his chaplaincy here in the Senate. So I had an inkling of the kind of man he was and deemed it a great privilege to be able to come here and serve with him.

I have observed few, if any, people that in my opinion better exemplify the walk of the Lord and the love of

the Lord than Dr. Halverson. He has been a great inspiration to me. He is a humble servant of God.

We see him publicly, and most of the world sees him publicly, giving the opening prayer to the Senate. And those of us who are privileged to serve in the Senate see him on Wednesday morning in our Senate prayer breakfast. We have the opportunity to see him on the floor as he listens to our debate. And we know of his work behind the scenes, in total confidentiality, and his counsel to the Senators.

But what most do not see is the work that Dr. Halverson has done throughout the Senate for the Senate family. I think the thing I appreciate the most about Dick Halverson is that he sees us as God sees us. He sees us all as one. He shows respect to all persons. It is the example of Christ embodied in this man, who has served us so faithfully as our Chaplain.

We have heard some wonderful tributes here this morning. But I do not think any of the tributes that we can provide could begin to equal the tributes that we would hear if the guards and the cooks and the clerks and the staff and all those who serve us in the U.S. Senate could come to this floor and tell us what Dr. Halverson has meant in their lives. The guard at the door, the cook in the kitchen, the maintenance man working in the basement, and the staffers working in the back offices, are just as important to Dr. Halverson's ministry as the Senators who speak on this floor. That is a story that will not really be told and which most of the world has not heard. But that is the example of a Christ-like walk that has meant the most to me.

And so, if I could, on behalf of the thousands of people who support us so that we can come here and stand in the spotlight, I want to pay tribute to Dr. Halverson and all that he has meant in their lives and for all that he has done. I wish he and his dear wife many, many years of happiness together, rest, and well-deserved relaxation. I know he will keep us in his thoughts and prayers as he views the Capitol from his apartment and looks over this city that he loves so much and this institution into which he has poured his life and his love. We will miss you deeply. Your successor, Dr. Ogilvie, is a fine man of God. He has huge shoes to fill. God's grace will allow him to do that. But you will be deeply missed. Your legacy lives in our hearts and in the hearts and minds of the thousands of people you have touched during your chaplaincy here, and we thank you for it.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia [Mr. BYRD] is recognized.

A GOOD AND FAITHFUL SERVANT

Mr. BYRD. Mr. President, this morning, we heard the Reverend Dr. Richard

C. Halverson offer his last prayer before the Senate. Dr. Halverson has been an inspiration for all of us over these many years, throughout which we have been blessed by his friendship, his fellowship, and his pastorship. And we shall miss him.

Tennyson's words, "I am a part of all that I have met," applies to our association with Dr. Halverson. He has ministered to us and to our families. When Erma, my wife, was in the hospital a few years back, he came to the hospital and prayed for Erma, prayed with Erma, prayed with me. When I lost my grandson, the oldest of our grandchildren in April 1982, Dr. Halverson delivered the prayer and the message at the memorial service.

His life has touched my life in many ways. He has inspired us with his prayers, with his dedication to the service here, with his dedication to this large family of his, with his dedication to his spotless Savior, Jesus Christ.

As Dr. Halverson goes away, he takes something of us with him, but he leaves something of himself with us.

"Twas battered and scarred, and the auctioneer

Thought it scarcely worth his while
To waste much time on the old violin,
But held it up with a smile:

"What am I bidden, good folks," he cried,
"Who'll start the bidding for me?"
A dollar, a dollar"; then, "Two!" "Only two?"
Two dollars, and who'll make it three?
Three dollars, once; three dollars, twice;
Going for three—" But no,
From the room, far back, a gray-haired man
Came forward and picked up the bow;
Then, wiping the dust from the old violin,
And tightening the loose strings,
He played a melody pure and sweet,
As a caroling angel sings.

The music ceased, and the auctioneer,

With a voice that was quiet and low,

Said: "What am I bid for the old violin?"

And he held it up with the bow.

"A thousand dollars, and who'll make it two?"

Two thousand! and who'll make it three?

Three thousand, once, three thousand, twice,

And going, and gone," said he.

The people cheered, but some of them cried,

"We do not quite understand

What changed its worth." Swift came the

reply:

"The touch of a master's hand."

And many a man with life out of tune,

And battered and scarred with sin,

Is auctioned cheap to the thoughtless crowd,

Much like the old violin.

A "mess of pottage," a glass of wine;

A game—and he travels on.

He is "going" once, and "going" twice,

He's "going" and almost "gone."

But the Master comes, and the foolish crowd

Never can quite understand

The worth of a soul and the change that's

wrought

By the touch of the Master's hand.

Dr. Halverson spoke to us often about that Master from Galilee. Dr. Halverson was something of a master himself. As he ministered to his flock, he gave of himself. And he continued to serve when his body sought retirement. His ready smile, his kind voice, his ever-ready hand extended in Christian fellowship—all these, we will miss.

We live in a very skeptical town. It is full of doubters and skeptics and cynics. But Dr. Halverson always represented the solid rock of faith, a steadfast belief in a higher power that has governed the destiny of this Nation from its beginnings.

This town, and every other town in America, large and small, needs to turn back to the old values that made America great, the old values that Dr. Halverson taught and that he emulated and that he followed in his daily walk with us.

Emerson, a great contemporary of Thoreau, said:

The true test of civilization is, not the census, nor the size of cities, nor the crops—no, but the kind of man the country turns out.

This country needs to return to the old values that were taught by Dr. Halverson. The country would turn out better men, and those of us who are already turned out would become better.

Since its inception, the Christian movement has rested on the foundation of the personal witness of the individual believer.

During his several valuable years among us as the Senate Chaplain, Dr. Richard C. Halverson has served as a twentieth-century model of that ageless witness—one man, though an ordained clergyman of a distinguished community of believers, moving among us, sharing a love that he borrowed from his relationship with God, shedding light in darkness, drying the tears of "those who mourn," giving hope to the downcast, and, sometimes through his presence alone, reassuring thousands—thousands—here on Capitol Hill and, through the electronic eye, reassuring millions that life—even political life—has eternal meaning. It causes us, or ought to cause us, to pause amidst the strife that we endure on the political battlefields, pause and be still and know that "I am God." There is life beyond the Senate. There is a life beyond a political party. And that there is a life beyond this life.

I pity—I pity—one who does not believe in immortality. I cannot comprehend a belief that is without God. I cannot comprehend the worth of a life on this Earth if there is no assurance of a life beyond the grave, no assurance of immortality, if there is no assurance that I will ever again see, with my tired eyes, my departed grandson.

We are daily caught up in the gewgaws of political life, and our social life. Many of these things are, of course, worthwhile. But there will come a day and a time, if my mind is still clear, when I will look forward to crossing that mystic sea to the eternal land where Michael, where my parents, and the couple who raised me, and the friends of yesteryear will be waiting to greet me. It is up to me to be prepared, when the time arrives, for the narrow gate that leads home.

No man is good. I do not pretend to be a religious man. We all have our

faults and we all fall short of our duty. We are all unworthy. We get caught up each day in the little chores and the demands that are made upon us as public servants. It is easy to forget how really tiny we are, how really insignificant we are. I have often thought that I would like to have gone to the Moon, just to be able to look back on this tiny, tiny, tiny speck which we know as our earthly planet, and then try, while looking down from that magnificent orb, to imagine tiny man and how insignificant and how small man truly is—less than a particle of dust traveling through this ephemeral life. How vain is man! How proud, vainly proud, is mortal man! I sometimes wonder if I am not the vainest, the vainest of men.

Even in leaving this work here as our Chaplain, Dr. Halverson has caused Senators today to reflect upon things that are lasting, things that are eternal. Darwin, in his treatise—as he expounds his theory of natural selection and conveys his impressions regarding the selection of the fittest as a microscopic organism evolves from virtual nothingness—speaks of a Creator. Darwin speaks of a Creator—of God.

So it is that through all of the ages, men of all races, in all parts of the Earth, have believed in a Higher Power, a creator.

Throughout Dr. Halverson's tenure as our Chaplain, he led us to a greater knowledge of, and a closer relationship with, our Creator, and more than once I have benefited from Dr. Halverson's ministry—a universal ministry not restricted by sectarian or even other-than-Christian boundaries. Just as important, however, I have benefited by Dr. Halverson's personal friendship. That friendship has brightened my life and enriched my work here as a Senator, and for that, I am grateful to him.

In the years that lie before Dr. Halverson, I wish him every happiness and every fulfillment that his exemplary spirit and pure heart might enjoy. And in that Great Eternal Beyond, I look forward to continuing the friendship and fellowship that are the promise to all of those whose daily walk is as Dr. Halverson's walk has been among us here in the U.S. Senate.

I think of Dr. Halverson as one who exemplifies the faith of the poor couple who raised me. I think of my own coal miner Dad as one of the few truly great men whom I have met in this life. He had very little education acquired in the halls of learning, but he was a man who owed no man a penny when he died. I never heard him use God's name in vain in all the years that I lived with him—a humble, hard-working coal miner.

And the woman who reared me from the day my mother died—I was then 1 year old. The woman who reared me was a woman of great religious conviction. Not a religious fanatic—I hold no

brief for religious fanatics or any other fanatics. She lived a simple, good life. Many times, when I have driven to West Virginia, arriving at 2 o'clock in the morning, she would open the door, and I would hear her say, "ROBERT, can I fix you something to eat?"

And when it came time for me to return to Washington, she would say, "Robert, you be a good boy. I always pray for you."

It is that kind of ministry that touches the human heart. And it was that kind of ministry that Dr. Halverson gave to us here.

As Dr. Halverson departs our company on this side of the Capitol, I say to Dr. Halverson, "Well done, well done. You have served us and your country well, and we will never forget you."

Last night, I passed beside the blacksmith's door,

And heard the anvil ring the vesper chime,
And looking in, I saw upon the floor,
Old hammers worn with beating years of time.

"How many anvils have you had," said I,
"To wear and batter all these hammers so?"
"Only one," the blacksmith said, then with twinkling eye,

"The anvil wears the hammers out, you know."

And so the Bible, the anvil of God's word,
For centuries, skeptic blows have beat upon,
But, though the noise of falling blows was heard,

The anvil is unharmed, the hammers gone.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Illinois.

CHAPLAIN HALVERSON HAS SERVED US WELL

Mr. SIMON. Mr. President, I would like to associate myself with the words of praise of Dr. Halverson that Senator BYRD just provided us. I cannot do it with the same eloquence. I hate to say it, the few poems I memorized back when I was in grade school and high school I cannot recite now. But I wish I had Senator BYRD's recollections or ability to recall things so vividly.

Every once in a while someone says, "Why do you need a Chaplain in the Senate?" We go through the same pains and agonies that everyone else does, and we have, in addition, the stress of being here.

I hope I never have to go through what the Senator from West Virginia has gone through, seeing a grandchild die. I cannot imagine how tough that must be. But I know having a Chaplain, not just for Members of the Senate but for our staffs—Chaplain Halverson was there to help anyone associated with the Senate who had problems, and the same is true of Chaplain Ford in the House.

When I was in the House, I can remember one of my colleagues looked as if something was wrong. I sat down next to him. I said, "Everything all right?"

He said, "I just got word that my son committed suicide."

I will never forget it. He needed help, and it is important to each of us and important to the Nation that we provide that.

I have noticed Chaplain Halverson—yes, he is good to each of us who is in the Senate, but I think equally important, he is good to all the staff. I can remember serving in the House with someone who was always good to his colleagues, but he was mean to elevator operators and others. Frankly, I never had any respect for him, even though he was a person of great ability. One of the things I really appreciate about Chaplain Halverson's service is he was available to everyone. He has served this Senate, he has served all of us very well. I want to associate myself with the remarks of Senator BYRD.

Mr. GORTON addressed the Chair.
The PRESIDING OFFICER. The Senator from Washington.

THE IMPACT OF CHAPLAIN HALVERSON ON PEOPLE

Mr. GORTON. Mr. President, I would like to associate myself with the remarks of my friend from Illinois on the remarkable eloquence of our senior colleague from West Virginia. I was thinking during his remarks how much they will be appreciated in printed form by Chaplain Halverson himself during the course of his retirement. They show a thoughtfulness and a sense for history and our culture which is unique with our friend from West Virginia.

One particular set of remarks made by my friend from Illinois were particularly appropriate, I think, and they had to do with the impact of Chaplain Halverson on the other people, other than the Members in the Senate.

One of the great occasional pleasures I can remember would be to walk down one of the Hallways here or in one of the Senate office buildings with the Chaplain and see how the faces of all we passed, all of the people who serve us and serve this body, would simply light up when they saw the face of the Chaplain and how he was never in too much hurry not to stop and have a good word or two of greeting for each and every person.

He was truly a Chaplain not just for 100 Senators but for all of the broad Senate family and for those in some sudden need who were just here as visitors as well.

As he retires and leave us, my own remembrance, my own memory of him will be of a man who comes closer in character to what we read about when we read about the saints and the great religious leaders in history, that he partakes of more of those qualities than any other individual whom I have been privileged to know, not just during my career here but during my life.

Chaplain Halverson, at some different time and some different place, might well end up being nominated a saint because his character was and remains a saintly character, who brings

joy and sustenance and strength and peace into the lives of all with whom he associates.

Mr. BYRD. Mr. President, I thank both of my colleagues.

Mr. President, I also thank Senator DOLE, the majority leader, for his thoughtfulness in asking Senators to come to the floor today, to come to the Chamber and to be present when Dr. Halverson uttered his last prayer here in the Chamber. I think that was a very good thing to do, and I appreciate very much the majority leader's having done that, and told him so when he was here earlier.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each.

Mr. GRASSLEY addressed the Chair. The ACTING PRESIDENT pro tempore. The Senator from Iowa.

DR. RICHARD C. HALVERSON

Mr. GRASSLEY. Mr. President, I hope before the clock starts to tick that I can take 15 seconds to speak about Pastor Halverson, and to remind everybody that Pastor Halverson is just retiring as Chaplain for the U.S. Senate. He is not retiring from being a pastor for people. He is not retiring from being a servant for the Lord.

This morning, I asked him to pray for me, and as I have done for the last 14 years, I will continue to pray for his work daily because I know that work will continue.

CONCERNING PRESIDENTIAL ETHICS

Mr. GRASSLEY. Mr. President, President Clinton was asked, at his most recent news conference, how he could explain the ethical controversies surrounding his administration—and these are the words of an inquiring press—“* * * after [he] came into office promising the most ethical administration in history.”

I wanted to take this opportunity to discuss how the President reacted to that inquiry at his news conference.

First, he responded to allegations about Roger Altman's ethical troubles. President Clinton stated that:

Roger Altman resigned even though he had violated no law and no rule of ethics.

There are two problems with that statement. First, Roger Altman resigned because bipartisan members of the Senate Banking Committee found that he misled Congress in sworn testimony. I hope that President Clinton did not mean to suggest that misleading Congress in sworn testimony is ethical.

And, second, Altman did not really resign. Several months later, he was still performing functions for the Treasury Department.

That is not the commitment to ethics that the President promised the American people.

President Clinton also mentioned former Agriculture Secretary Mike Espy. The President said that Secretary Espy's actions involved “* * * a few thousand dollars, all of which he has reimbursed.”

I think Secretary Espy made a number of significant contributions as Agriculture Secretary. But, once again, I have to take issue with the President. The purity of the Nation's food supply is vital. Laws have been on the books for decades to prevent the Agriculture Department personnel from taking any payment that might influence their decisions regarding food product safety. And ethics is about the adherence to rules. The fact that amounts involved might have been petty may relate to appropriate punishments. But it does not relate to or excuse an ethics violation, if one occurred.

The President's comments that Mr. Espy is the only Cabinet Secretary to resign based on ethics challenges to actions taken while in office is technically true. But this is only because Commerce Secretary Ron Brown has not resigned. It is simply not true, as the President has repeatedly said, that the charges relating to Secretary Brown concern only his conduct prior to taking office. Significant ethical issues arise from the manner in which he reported various financial transactions on his ethics disclosure forms once he assumed office. Various conflicts of interest are alleged to have arisen after he became Secretary of Commerce as well.

I am also concerned that the President seems to think that somehow it is a matter of less concern that a person in his administration is accused of ethical conduct prior to joining his administration than afterward. What does that say about the vetting process that was followed?

Does the President suggest that the ethics of a person he chose for his administration matter only with respect to actions they took while in office? Remember, Vice President Agnew resigned because of actions he took prior to assuming that office.

I think that it is not asking too much of the President, who promised the toughest ethical standards in history, that his appointees be ethical in their current positions and that they have records of acting ethically.

However, the President said that we are “creating a climate here in which a lot of people will be reluctant to serve.” Let me make crystal clear that, in fact, we are trying to create a climate in which people who are not ethical, including a number this Presi-

dent has appointed, are very reluctant to serve.

President Clinton also said that under the independent counsel law investigations cannot be controlled. The President said that if a certain number of Members of Congress ask for an independent counsel, then the prospect of a counsel is triggered. Mr. President, I am pleased to have supported the independent counsel law over many years in times of both Republican and Democrat Presidents. President Clinton made reauthorization of that statute a priority, so he should not complain about that law.

But we should be clear about the terms of the statute. A particular number of Senators cannot demand that an independent counsel be appointed. What Members of Congress can do is force the Attorney General to conduct an investigation and to make a decision. But the decision to ask for an independent counsel is the Attorney General's alone.

For instance, a majority of Republicans on the House Judiciary Committee wrote the Attorney General to ask that an independent counsel be appointed to prosecute Ira Magaziner on the contempt charges arising from the health care task force litigation that the Justice Department defended. Attorney General Reno conducted an investigation, but she decided not to ask for the appointment of an independent counsel. In the other instances in which an independent counsel was appointed, it was the President's own Attorney General who sought the appointment because the circumstances warranted it. Members of Congress cannot force an appointment.

President Clinton also said that with respect to his administration, “You would be hard pressed to cite examples that constitute abuse of authority.” In fact, it is very easy in regard to the health care reform task force. A violation of the Federal Advisory Committee Act by the health care task force is one example. Failure to immediately put assets in a blind trust, as all other recent Presidents did, while those assets included a fund that shorted health care stocks, is a second example. A third example is Travelgate; that was an abuse of authority. And, of course, there are many others.

Mr. President, the Olympic games include the high jump. The gold medal is awarded to the person who jumps the highest, not to the person who sets the bar the highest but fails to scale it. President Clinton may honestly believe that his administration has set the ethics bar the highest of any of his predecessors. But that is irrelevant because so many people he has appointed are not clearing that bar.

With ethics, it is not the standard that is set but the standard that is met that counts. The fact is that this administration is not practicing what it

preaches in the area of ethics. And that fact is unfortunately reducing public trust in Government. When President Clinton is questioned about the ethical performances of his administration, as he was in a news conference, he should make amends, not excuses. He should make sure that his appointees live up to the standards he believes are so high. Until then, the questions will continue.

Mr. LOTT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

SCHEDULE

Mr. LOTT. Mr. President, as has already been announced, following the leader time, morning business will go until 11 o'clock with Senators allowed to speak not to exceed 5 minutes. In addition to the exception of 10 minutes for Senator GRASSLEY just being used, we also have 10 minutes for Senator ABRAHAM, 10 for Senator KOHL, and 15 minutes for Senator GRAHAM.

At 11 o'clock, we will resume consideration of H.R. 889, the supplemental appropriations bill. Cloture was filed last night on the Kassebaum striker replacement amendment. We hope to set that aside and set aside the pending Kassebaum amendment so we can consider other amendments. I urge my colleagues on the other side to allow that to happen, because this is an important supplemental appropriation.

We have already agreed that we will have a vote on Monday on the cloture motion, and we have other business that we can do on this bill. We should go forward with that this afternoon.

If consent is not given, the leader has indicated that he would expect full debate on the Kassebaum amendment throughout the day, and votes, therefore, would be possible throughout the day.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President.

Mr. ABRAHAM. Mr. President, I would like to congratulate.

TORT REFORM

Mr. ABRAHAM. Mr. President, I would like to congratulate our colleagues in the House for acting this week to bring our tort system under control. The bill passed by the House earlier this week imposes all attorneys fees on a party who turns down a settlement offer if the final judgment is not more favorable to the offeree than that which he turned down. It also would eliminate junk science from the courtroom and require courts to sanction attorneys who file frivolous claims.

The House action constitutes an important first step toward reforming our civil justice system.

I also would like to take a few moments to respond to the criticism recently leveled at attempts to reform our tort system.

President Clinton and his Attorney General have called the House reform bill "too extreme." His counsel Abner Mikva went even further, claiming that the bill would "tilt the legal playing field dramatically to the disadvantage of consumers and middle-class Americans."

Some of our colleagues and the American Trial Lawyer's Association, one of President Clinton's most generous and loyal contributors, would like this characterization to take hold.

Opponents of tort reform would like it if the American people were to see changes in our civil justice system as a boon to big corporations and the rich rather than a broad-based set of reforms that will help consumers, victims, and the general public at the expense only of a handful of individuals and lawyers who bring frivolous lawsuits.

To hear much of the public debate you would think that tort reform is a struggle between corporate fat cats who want to injure the public with impunity and legal barracudas who seek only to feed on small business and the tort victims who must entrust lawyers with their claims. But this heated rhetoric in my judgment, helps no one, in fact it keeps us from focusing on the issue at hand—making our tort system more just and fair.

I come to this debate, not to attack lawyers, but to help victims and consumers. I take exception to the charge that tort reform is anti-consumer, particularly given the faults in the system as it stands.

Is it really pro-consumer to have a system like the current one in which those who are injured—consumers of legal services—receive only 43 cents of every dollar in damages awarded?

Is it really pro-consumer to have a system in which, as reported in a recent Conference Board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Does it really help consumers and the middle class to have a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

Are we and our children better off when pharmaceutical companies stop producing helpful drugs like the DPT vaccine out of fear of lawsuits?

In this last case, that of DPT, two of the three companies making the vaccine stopped production in 1985 because they could not afford to deal with all the suits arising from the always highly suspect and now clearly disproved

theory that it might in very rare instances cause brain damage. To conserve the limited supply remaining the Centers for Disease Control recommended that doctors no longer vaccinate children over age 1, leading to who knows how many illnesses in small children.

Is it really pro-consumer to have a system in which poor, unsophisticated clients in particular must hire lawyers, without fully knowing how much they will pay or what their options for legal services are?

Are our communities better off when the parents of Little Leaguers are afraid to have their kids play or organize games for fear of being sued?

Legal reform is in everyone's interest. The tort reform bill Senator MCCONNELL and I have introduced would lower prices, establish a legal consumer's right to know what he or she is purchasing and at what cost, promote early settlements, and reduce time and cost to injured parties, as well as often innocent defendants.

Our bill would curb windfall profits in lawsuits—thus reducing the price ultimately paid for goods by the consumer—by capping punitive damages and eliminating joint and several liability.

The bill would empower clients in their dealings with lawyers by requiring that attorneys disclose in writing, to any client with whom they have entered a contingency fee agreement, both the actual services performed and the precise number of hours expended on performing them. The bill also would require lawyers to tell clients that they may pay a percentage of their award or, alternatively, pay an hourly fee.

Thus we would protect consumers' right to know how much they are paying and for what services. We recognize this right to know in all other markets and should do so in the legal services market as well.

Our bill also would reform contingency fees by providing that, if a plaintiff receives a settlement offer and still wants to go to trial, the lawyer would receive the usual contingency percentage only on the portion of the award that is above the original offer.

Besides preventing lawyer overreaching, this last contingency fee reform also will encourage early settlements, thus saving transaction costs for plaintiffs and defendants, and ultimately consumers.

Our bill also would allow defendants, by making an early offer, to limit their exposure to certain damages and legal fees.

If a potential defendant agrees to pay in full for economic losses and the plaintiff accepts the offer there obviously would be no lawsuit. Under our bill, should the plaintiff not accept the offer, he or she still can sue, but can only recover noneconomic damages if

they prove beyond a reasonable doubt that the defendant intentionally acted against the plaintiff's rights.

Besides discouraging lawyers and litigants from unreasonably holding out for more money and higher fees unless it clearly is warranted, this reform also would discourage defendants and their insurance companies from dragging out litigation in hopes of making plaintiffs give up their suits and go away.

Promoting early settlements, reducing insurance and legal transaction costs and thus reducing prices and stimulating production and innovation, and protecting the legal consumer's right to know. Those are the reforms we seek to institute for the good of all members of the American community.

Which brings me to my final point. Community is one of President Clinton's favorite terms. The President even wants a new covenant to bind us together as a people. Well I too am a proponent of community. I think it is important for Americans to join together in their homes, in their churches, and on their neighborhood baseball fields to learn one another's needs, form common habits, and see one another more as brothers and sisters than as strangers.

But Americans join together less and less, out of fear that an accident on the Little League baseball field will land them in court. Accidents happen, we all know that. But in my judgment, if we all spend all of our time trying to avoid them, or at any rate avoid paying for them in court, we will not have much time or energy left over to form the bonds of community that hold our society together.

Without the bonds formed on our ballfields and in our local civic halls we will lose that sense of our duty to be decent and civil to one another that maintains our civilization.

Our current tort system, by turning neighbors into potential defendants and/or plaintiffs, discourages us from coming together, and that is a major reason why I believe it must be changed. We must reform the system to reward the neighborly, who seek to settle disputes quickly and so reduce the fear of being sued that hangs over too many relationships in our society today.

As we proceed with legal reform in the Senate, I would urge that we consider everyone's needs and interests—victims who should receive quick and fair settlements, consumers who should not have to pay higher prices or have their product choices and economic opportunity stifled by high legal costs, and members of our own communities, whom we should not be tearing apart through explosive rhetoric but rather bringing together in a spirit of trust and cooperation.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. GRAHAM. Mr. President, I believe under the order Senator KOHL was to speak at this time. I was to speak after Senator KOHL. I request the opportunity to speak at this time.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. GRAHAM. Mr. President, I have a unanimous-consent request which has been cleared on both sides. I ask unanimous consent that morning business be extended for up to 30 minutes so that I and Senator KOHL may have time provided under the previous order, and that up to 15 minutes be allocated to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO REVEREND HALVERSON

Mr. GRAHAM. Mr. President, I would like to extend my very warm feelings for the service that Reverend Halverson has extended to me and to my colleagues.

One of the challenges in life is to be able to approach it holistically. We tend to focus on that thing for which we have a particular responsibility. In our case, our responsibility to represent our constituents in the Nation in the U.S. Senate.

What Reverend Halverson has so appropriately reminded Members is we also have broader reins of responsibility—responsibilities of a spiritual nature, responsibilities of a human nature, particularly our responsibilities within our own families. That constant reminder of our broad range of responsibilities has been one of his gifts to me. It will be a gift that I will continue to draw strength from.

I wish the reverend well in his own next stage of life. As I told him personally a few moments ago, I hope that he will be able to include some of the warmth of our State—not only its climate—in our appreciation of his service.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 529 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from North Dakota is recognized for not to exceed 15 minutes.

CONGRATULATIONS TO REVEREND HALVERSON FOR DEDICATED SERVICE

Mr. DORGAN. Mr. President, I would like today to congratulate Reverend Halverson for his dedicated service to the Senate of the United States and to our country, and say that I take a special pride in the fact that Chaplain Halverson comes from my home State of North Dakota. He is from Valley City, ND. He has performed a wonderful service for our Nation.

I would like to add my comments to the comments of so many of my colleagues about what he has done for all of us for all of these years.

TAX CUT—WHAT IS POPULAR IS NOT ALWAYS RIGHT

Mr. DORGAN. Mr. President, a week ago, we finished a debate about a constitutional amendment to balance the budget. In that debate, there was a great deal of discussion about the desire of Members of Congress to see the Government balance its books and produce a balanced budget.

It is interesting to me today, on Friday, that we find a week later some of those who boasted the loudest about wanting to balance the Federal budget are now deciding that what we really need to do is to cut taxes. In fact, they are just marking up in the other body a \$188 billion tax cut bill, which I assume is popular and I assume that in their polling has shown to be something that the American people would favor. So they decide that the road to fiscal policy health, at least from their perspective, is to offer the American people a tax cut.

Often what is popular is not always right, and that is the case with a proposed tax cut at this point in our country's history. All of us would like to be able to say to our constituents, we would like lower taxes for you. In fact, if we are signing up, let me sign up for a zero tax rate for my constituents.

I am sure that most of them would like to not pay any taxes if they can avoid doing so, but they understand the responsibility to do so. They understand the need to keep our streets safe and have a police department, to have a Defense Department to keep our country secure, to pay for education, to pay for the things that make life worthwhile in this country. They understand the need to pay some taxes. They do not want those payments wasted. They want them invested in the future of our country.

But at a time when we have a significant debt and a very significant budget deficit, for those who bellowed the loudest about changing the Constitution to require a balanced budget to 7 days later now tell us that their plan really includes reducing Federal revenues by \$188 billion reminds me a little of watching ponies at the circus, all

gussed up, prancing around in a circle, never going anywhere, just showing off.

The question is, Are you going to balance the budget or not? You do not balance the budget by cutting this Nation's revenues and increasing one of the largest accounts, defense spending. That is not an arithmetic that I learned in a high school class of mine. There might be a new math out there someplace that comes with these new Republicans who have arrived in Washington, but if it is a new math, I do not think it adds up.

At least from my standpoint, I say to the Contract With America and those who wrote it, I say to the President, I say to others who believe there ought to be a tax cut, you are wrong. Our job is simple. Our job is to cut Federal spending and use the savings to cut the Federal budget deficit. That is our job. It is not our job to be weather vanes, spinning to the latest moment of public passion and deciding it is popular now to be talking about tax cuts. It is our job now to be talking about spending cuts and reducing the budget deficit and putting us on a path toward balancing this Federal budget.

So again I say the proof is not in what people say, but it is in what people do. Those who now come trudging along with a proposal for a massive tax cut, much of which will go to the wealthiest of Americans, do no service to this country in the search for a balanced budget. I, for one, believe our job is clear. It is not to cut taxes, it is to cut spending and use the savings to cut the budget deficit. The sooner we do that in a serious way, the better this country's future will be.

SOCIAL SECURITY TRUST FUND

Mr. DORGAN. Mr. President, I would like to speak this morning about one other issue. In this morning's newspaper, a columnist named Krauthammer wrote a column. It was entitled "Social Security 'Trust Fund' Whopper." His column was one of the most Byzantine pieces of journalism that I have seen in some long while, and I have seen a few in my public career.

It demonstrates to me that you can be an awfully good writer without knowing anything about math or accounting. In fact, when I read this column this morning by Mr. Krauthammer, it occurred to me this is a candidate for O.J. Simpson's defense team. Facts and evidence seem irrelevant.

Let me go through just a bit of this column and talk about some of the conclusions.

Mr. Krauthammer's contention is that the Social Security trust fund is a "fiction." He says, it is a pay-as-you-go system and he says there, incorrectly, by the way, we are accumulating surpluses in the trust fund today so that "with so many boomers working today" that "produces a cash surplus."

Mr. Krauthammer, I think, pulled away from the research table a little too soon; at least his research comes up a little short. The surplus this year in the Social Security trust fund is not because we have so many boomers working and they produce a cash surplus, it is for a very specific reason. Mr. Krauthammer would know it had he researched it or remembered it.

In 1983, we passed a Social Security reform bill and in that bill made a specific, conscious decision to increase the FICA tax, in order to produce revenues that exceeded expenditures during this period and leading up through about the year 2019. We did that deliberately because we knew we were going to need those revenues later.

This is not a surplus that is an accident as a result of more people working. That is not what it is about. This is a deliberate strategy, and he could determine that by simply going back and reading the 1983 Social Security Reform Act. I, incidentally, helped write that. I was on the Ways and Means Committee at the time, so I would know something about that.

I would tell him, in future columns, he might want to remember, it is not an accident. It is not how many people are working versus how many retired. This was a deliberate strategy embarked on in 1983 to accumulate a deliberate pool of national savings in order to meet a need after the baby boomers retire.

Mr. Krauthammer says the Social Security trust fund is a fiction. Well, the money that is collected from the paychecks of workers and from those who employ them in this country is deposited in a trust fund that invests them in Government securities. The trust fund is in the same position as a young boy who just received a birthday gift a \$100 U.S. savings bond. Both possess assets, redeemable by the Federal Government. So the proposition that the trust fund is a "fiction," as Mr. Krauthammer suggests, demonstrates, in my judgment, a profound lack of knowledge.

Perhaps the best way to demonstrate the bankruptcy of this argument by Mr. Krauthammer would be to use the year 2002, just focus on one year, 2002, when my friends who proposed the balanced budget amendment say the budget would be in balance.

Let us take a look at that year only. According to the Congressional Budget Office, in the year 2002, we will in that one year alone raise \$111 billion more in Social Security receipts than we need in spending. That surplus, as I have said before, is part of a long-term plan to save for the period when we are going to need the extra money.

Now, under the constitutional amendment that was offered, in the year 2002, the operating budget of the United States would show a zero balance. But, of course, in order to show

the zero balance the \$111 billion surplus in the Social Security trust fund account would have to be used to get there. Without using the Social Security surplus for that year, the operating budget deficit would not be zero, would not be in balance, but would in fact show a deficit of \$111 billion.

The legislative promise that was made in 1983 was that that \$111 billion would be saved in a trust fund to be used later. But, of course, if it is used to reduce the operating budget deficit, there is then no forced pool of national savings with which to fund the baby boomers' retirement later.

Now, I would say if Mr. Krauthammer's view, and for other proponents I would say, if their view of double-entry bookkeeping is that you can use the same money twice, then I understand the rationale for his column this morning, and I understand the rationale for their argument. It is, of course, a fraud, but it is still a column or it is still an argument. If, however, he, like most people, understands you can only use money once, it is either here or it is there. It is not both here and there. Then the balanced budget achieved by the constitutional amendment in the year 2002 was not in balance at all. It was \$111 billion in deficit.

To me at least that looks like Washington as usual. It looks like Washington the way it always works, I guess an environment which Mr. Krauthammer is part of and comfortable with. But it is still, nonetheless, not honest budgeting.

Let me use an example probably closer to home. Let us assume a columnist makes speeches and gets speaking fees, big speaking fees, and uses a portion of those speaking fees to put them in a 401(k) to save for later in life.

Now, let us assume that after putting money away in a 401(k) from speaking fees, that person goes on a spending binge and spends more than their current income, and simply takes the money out of the 401(k) to cover the extra spending that occurred. And I suppose that person could say, well, I spent no more than I had; I spent all my income plus all my savings.

It is true they spent no more than they had, but it is also true they depleted their savings; they have no 401(k); it is gone. And that is the point.

That is the point about the year 2002. And that demonstrates it is not honest budgeting if you promise to save in a trust fund and use it to balance the rest of the budget. That is the point Mr. Krauthammer misses, and it is the point others miss.

I feel a bit strongly about this, as my colleagues understand, because I helped write the 1983 Social Security Reform Act when I was a member of the Ways and Means Committee. I would not have ever supported or cast a vote for that kind of proposition if someone had said to me, "let us increase payroll taxes, let us tell the

American workers that those moneys will go into a trust fund, let us use that trust fund—which comes from a regressive tax—and instead balance the Federal budget deficit." I guarantee you that would not have gotten two votes in the Senate or the House. No one, I mean no one, here would have had the bad judgment to decide to substantially increase a payroll tax, promise it will be put in a trust fund, and then claim later that it is used to reduce the Federal budget deficit. But that is exactly what has happened in the past. It is exactly what would have been enshrined in a requirement in the constitutional amendment in the future.

I regret that people like Mr. Krauthammer write articles with such a profound lack of understanding about the facts. They have every right to do that. But the fact is we have every right to challenge those who write as carelessly as he did.

Mr. President, we have a challenge, all of us, to start doing instead of talking. We offered yesterday a proposal for a new budget process. It said let us do this. If we believe, and I do, that we can balance the budget by the year 2002 without using Social Security trust funds, and we should, then let us decide on a budget procedure that brings a point of order, a 60-vote majority to overcome, against any budget that comes to this floor without a 7-year plan to get to a balanced budget by the year 2002. Let us see if people are willing to bite into this problem with real teeth. Let us decide soon whether this is a lot of talk or whether this is honest concern by people involved who are willing to do some heavy lifting.

At least in the last 24 hours, the news that the same people who were trumpeting the constitutional amendment for the balanced budget are now off deciding that what they want to do is have a very big tax cut, much of the benefits to go to the wealthiest Americans, does not seem to me that they are very serious about reaching a balanced budget in this country's future. I for one think a tax cut proposal in the midst of the kind of deficits and debt we have makes no sense at all. It is the ultimate in political posturing and the ultimate, in my judgment, failure to be willing to come to grips honestly with the serious problem this country faces.

At least speaking for myself, and I hope for others, we should not have a debate anymore about who wants balanced budgets. I do. I am willing to join in any group, in any way, on any day, in a bipartisan way to take tough medicine, to cut Federal spending in the right way, and to move this country toward a balanced budget. That ought to be the obligation of all of us working together in the months ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. SIMON. I thank the Chair. Parliamentary inquiry. When are we scheduled to return to—I believe the pending amendment is the Kassebaum amendment on the emergency supplemental?

The PRESIDING OFFICER. At 11:30.

Mr. SIMON. At 11:30.

BALANCED BUDGET AMENDMENT

Mr. SIMON. Mr. President, let me say first that I agree with three-fourths of what my colleague from North Dakota has just said. First, I think it makes absolutely no sense to be talking about a tax cut now. I think it is just absolutely irrational. It politically makes sense but it does not make sense any other way. And so I agree with him.

Let me point out one other area where we can save money and do a great deal of good for the people in our country. That is if we pass a minimum wage bill. If we pass a minimum wage bill, we will spend less money on food stamps; we will spend less money on welfare. That is very practical. I do not know the precise numbers, but I saw one figure yesterday that we will save approximately \$1.8 billion a year if we pass a minimum wage bill, in terms of a Federal budget. I do not know how thoroughly documented that is.

Where I differ slightly from my colleague from North Dakota—I agree with him that we ought to be moving away from reliance on the Social Security trust fund in balancing the budget, and we came very close to an agreement on that—where I do differ is that it seems to me that the Krauthammer column is correct in saying the great threat to Social Security is the debt. Because if we do not change our policies, we will end up monetizing the debt, printing money, devaluing our currency. We are already seeing some of that. I want to comment on that in just a moment. We are already seeing some of that, just in the days since we failed to pass the balanced budget amendment last Thursday.

I am a cosponsor of the bill to move, by legislation, toward a balanced budget by the year 2002. There are two problems with that. I hope it can have some impact. I, frankly, do not think ultimately it is going to work, because as soon as the squeeze gets on we simply change the law. That is the reality. There is a second problem with it. Assuming that it works. And that is interest by the financial markets is composed of two things. One is they want to have a margin of profit. That is always going to be there. The second thing the financial markets do is they put into interest, a hedge against infla-

tion. So every study, CBO, Data Resources, Inc., Wharton—all of them say if we pass a balanced budget amendment interest rates will go down. We have seen what has happened to interest rates since a week ago Thursday. We did not pass the balanced budget amendment.

There will be no similar confidence in the financial markets by any statutory change that we make. So we will be paying a premium on interest for our failure to pass a constitutional amendment. We will spend hundreds of billions of dollars, in my opinion—and no one knows this precisely—unnecessarily on interest because of our failure to pass a balanced budget amendment.

Data Resources, Inc., one of the two most prominent econometric forecasters in the Nation, predicts that, by the year 2002, if we pass it, the prime rate will drop 2.5 percent. Wharton says 4 percent. But Data Resources, 2.5 percent. They say half the savings that we must get can come from interest savings. That is a very significant savings.

Finally—and this is not in relation to the comment of my colleague from North Dakota, but to what has happened—I notice the international publications are very clear in pointing to our failure to pass the balanced budget amendment. Some of the domestic publications are, too, though there is much more focus on Mexico as a reason for the fall of the dollar. The reality is, if we had our fiscal house in order, what we have done by guaranteeing \$20 billion in loans to Mexico would be just a blip on the horizon. A \$20 billion loan guarantee for a country with a \$6 trillion economy is not that significant an item. But when you compound it with our failure to pass a balanced budget amendment, then you have a problem.

I would like to quote a few items here, if I can find them. Yesterday's Los Angeles Times lead story, "Green-span Asserts Deficit Sank Dollar. Fed chief says defeat of balanced-budget amendment sent wrong signal to global markets. He says Washington must cut deficit to ease pressure on greenback."

Then let me read the lead story by James Risen.

Federal Reserve Board Chairman Alan Greenspan on Wednesday blamed last week's Senate defeat of the balanced-budget amendment for the sudden plunge in the value of the dollar and pointedly warned Congress that the currency will remain under pressure until Washington tackles the deficit.

There are a number of stories along the same line. I am not going to bother reading all of them at this point.

The point is, it is easy for us here to point to Mexico and say that is the cause of our problem. The reality of the cause of our problem is right here in the U.S. Senate, and we have to face up to that reality. The longer we postpone facing up to that reality, the greater the jeopardy we put the dollar

in and all the ramifications that will have on the standard of living of our people.

I hope we will face up to reality.

Mr. President, since I do not believe anyone else seeks the floor right now, let me glance through a few of these things here. Here is the Financial Post, from Great Britain, "The Current U.S. Dollar Crisis Was Exacerbated by Congress' Inability To Get the Balanced Budget Amendment Passed."

Here is the Independent, also a British publication.

*** defeat of the balanced budget amendment only reinforced in foreign eyes Washington's reputation for incurable fiscal profligacy. And most important of all, the tectonic plates of interest rate expectations have abruptly shifted.

AFX News. I confess I do not know where that is from.

I think some of the support the dollar got from the election of the Republican Congress has faded with the defeat of the balanced budget.

Quoting some analyst here.

Here, from Singapore, the Straits Times.

The dollar's fall began last Friday, after Federal Reserve Board member, Mr. Lawrence Lindsay, told reporters that the yen-dollar rate had not reached a "critical level."

It coincided with the failure of the U.S. Senate to pass a constitutional amendment requiring a balanced Federal budget.

The failure was seen as a lack of political will by the United States to tackle its twin deficits—budget and trade deficits—widely seen as among the factors contributing to the weak dollar.

And the stories go on. Here is one from Japan, the Daily Yomiuri.

The move was accompanied by news that the U.S. Senate voted down an amendment to the U.S. Constitution that would have forced balancing of the national budget by 2002. This combination caused the mark to soar, followed by the surge of the yen.

And the stories go on.

Clearly we have the ability here to get ahold of this thing. We ought to do it for the future of our country. But it is affecting us right now, and I hope in some way we can find one more Member of the U.S. Senate who will vote for a constitutional amendment. I think when that happens, if that happens, you will see a reversal. Obviously, I cannot predict and guarantee this. But the evidence is pretty overwhelming. You are going to see a reversal of what has happened to the dollar.

I hope we do the sensible thing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE

Mr. SARBANES. Mr. President, the time is long overdue for the Federal Government to establish a realistic wage standard for the American worker. The real value of the minimum wage has deteriorated markedly since 1979. At its current level of \$4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950's the real value of the minimum wage was worth more than \$5 per hour by today's standards and in the mid-1960's it peaked at \$6.28. However, because Congress has failed to respond to inflation over the last 20 years, the real value of the minimum wage is now 27 percent lower than it was in 1979, and has fallen by almost 50 cents since 1991.

The decrease in the value of the minimum wage has widened the gulf between rich and poor, making it even more difficult for hard-working families to make ends meet. In 1993, I strongly supported President Clinton's expansion of the earned income tax credit [EITC] which raised the income of 15 million households—helping many families rise above the poverty line. Today a family of four with one worker working year round, full-time at the current minimum wage would earn \$8,500 and receive a tax credit of \$3,400 for a total annual income of approximately \$14,700. The Congressional Budget Office [CBO] estimates that in 1996 the poverty line for a family of four will be \$16,092. Therefore, under the current minimum wage, workers can work full-time for an entire year and still fall \$1,300 below the poverty line.

One of the most common arguments put forth by opponents of the minimum wage is that an increase would ultimately rob the economy of jobs and income. The idea is that by increasing the minimum wage, businesses will have to pay fewer workers more, resulting in lower employment rates. Recent evidence has indicated that this argument is seriously flawed. A 1992 study by Princeton economists David Card and Alan Krueger in New Jersey found "no evidence" that a rise in New Jersey's minimum wage reduced employment. In fact, just the opposite was true. Card and Krueger's research indicates that "the increase in the minimum wage increased employment." These findings were echoed by Nobel Prize winning Economics Professor Robert Solow of MIT when he stated, "The main thing about minimum wage research is that the evidence of job loss is weak."

Mr. President, it is clear that the American economy can afford a reasonable increase in the minimum wage. In fact, it stands to reason that more money in the pocket of the American workers means that more money is being spent and purchasing power is increased. As Henry Ford so aptly stated,

"If you cut wages, you just cut the number of your customers."

In debating the economic value of this important policy decision, we must be careful not to overlook what I believe to be the heart of the matter—the American worker. Historically, Congress has acted to ensure minimum standards of decency for working Americans. Measures to protect workers from unsafe and unfair working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated through the years. It is my strongly held view that these actions appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

As long as we fail to act, we send the message to working families across the country that hard work and sound living is not enough. According to the Bureau of Labor Statistics, two-thirds of all minimum wage earners are adults who are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of \$4.25 is not enough to cover the average living expenses of a family of four. It is unthinkable to me that in what is arguably the wealthiest Nation in the world, there are families out there right now trying to choose between buying groceries for their children or heating their homes.

As the Senate prepares to take up the debate on welfare reform, it is important to note that the Bureau of Labor Statistics estimates that three out of every five workers earning the minimum wage or below are women—and the current minimum wage falls significantly short of enabling single mothers to achieve self-sufficiency. How can a single mother be expected to be able to provide food, clothing, shelter, medical care, and child care on \$4.25 an hour? In my view, instead of maintaining barriers to work, we should be helping to tear them down.

Mr. President, Americans want to work. They want to be able to adequately provide for themselves and their families. But they are working for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for "a fair day's pay for a fair day's work." The American worker deserves no less, and I urge my colleagues to join me in supporting efforts to increase the Federal minimum wage.

EPA DRINKING WATER REGULATIONS SHOULD PROGRESS

Mr. KOHL. Mr. President, I rise today to express my displeasure with action taken by the Senate Governmental Affairs Committee.

Yesterday, in their markup of regulatory moratorium legislation, on a party-line vote, the Governmental Affairs Committee rejected an amendment by Senator GLENN to allow long-overdue EPA regulations protecting citizens from parasite contamination in drinking water to move forward.

Mr. President, just under 2 years ago, my colleagues will perhaps remember the national headlines delivering the grim news that citizens of Milwaukee were dying as a result of an infestation by the parasite cryptosporidium in the city's drinking water. By the time the parasite infestation had fully run its course, 104 Milwaukee residents had died, and over 400,000 had suffered from a debilitating illness.

What was the cause of the infestation? Government inaction. While we can all talk at length, and with good justification, about examples of over-regulation, we must recognize that there are instances in which the Federal Government has not done enough to protect our citizens. Mr. President, parasite contamination in drinking water is one of those cases. The 104 deaths and 400,000 illnesses in Milwaukee are but one example attesting to that fact. In reality, while the Milwaukee incident is the largest reported outbreak in U.S. history, it is just one of many outbreaks nationwide. Other major outbreaks in recent years include a 1987 cryptosporidium outbreak in Carrollton, GA, that sickened 13,000 people, and a 1992 cryptosporidium incident in Jackson County, OR that caused 15,000 people to become ill. There are numerous other examples of parasite contamination nationwide.

In reaction to the lack of Federal Government action in this area, the city of Milwaukee has gone ahead with its own efforts to protect its residents against water-borne parasites such as cryptosporidium. But other communities are still vulnerable.

Mr. President, I support efforts to require a thoughtful cost-benefit justification to be made for Federal regulations. I think that that makes eminent sense given the complexity of risks that exist today. But I urge my colleagues to exercise some judgment and common sense when it comes to matters as important and as dangerous as parasite contamination in drinking water. We can sit in our towers of philosophical purity and vote party line on matters of general policy, but when it comes to life and death realities for the people of this Nation, we must use common sense.

So again Mr. President, I am upset by the actions of the Governmental Affairs Committee yesterday to prevent

EPA from moving forward with regulations to protect our citizens from parasite contamination in drinking water. It is my hope that when the regulatory moratorium legislation reaches the floor, my friends on the other side of the aisle will use their good common sense when it comes to clear dangers in our drinking water. We should not be voting party line, when lives are on the line.

TRIBUTE TO JESSE LEWIS, JR.

Mr. HEFLIN. Mr. President, Jesse J. Lewis, Jr., a Birmingham, AL, advertising and public relations executive, passed away on February 26 after a tragic automobile accident. He was the president and chief executive officer of Jesse J. Lewis & Associates. His firm's clients included the State of Alabama, the city of Birmingham, the Birmingham Water Works Board, Midfield Dodge, the Birmingham Civil Rights Institute, and the Jefferson County Citizens' Coalition.

A native of Birmingham, Jesse Lewis, Jr., was one of the first blacks to attend the prestigious Indian Springs School in Pelham. He later graduated from John Carroll High School and Miles College.

In 1980, he took over the advertising firm from his father, Jesse Lewis Sr., who is publisher of the Birmingham Times newspaper, former president of Lawson State Community College, and the first black this century appointed to an Alabama Governor's cabinet; he served as director of highway traffic and safety under former Gov. George Wallace. The firm was founded in 1952, and is one of the oldest black-owned advertising and public relations companies in the country.

Jesse J. Lewis & Associates received the 1994 Travel Industry of America's Marketing and Promotion Creativity Award in the broadcast/radio category for an Alabama Bureau of Tourism commercial. Jesse, Jr. was also nominated for Business Person of the Year last year. He had a wide circle of friends crossing racial, economic, and social lines. He was extremely energetic and contributed much of his time to many civic organizations, especially those having to do with the city of Birmingham. He sat on the board of directors of the Birmingham Urban League.

Jesse Lewis, Jr.'s death at such a young age leaves a great void in his community and the business world of which he was such an integral part. He had already accomplished so much professionally, and so much more was confidently expected of him. He truly enjoyed the admiration and respect of those who knew him, including his loyal clients.

I extend my sincerest condolences to Jesse's parents, Jesse and Helen Lewis, and his brother James in the wake of their tremendous loss.

TRIBUTE TO JUDGE WILLIAM HUTCHINS COLE

Mr. HEFLIN. Mr. President, former Jefferson County, AL, Circuit Judge William Hutchins Cole, who served 18 years on the bench, passed away on February 12, 1995, at the age of 76. Judge Cole served as county circuit criminal judge until 1988, when he reached his 70th birthday. Under Alabama's judicial article, judges must retire when they turn 70. However, they may stay on as supernumerary judges—hearing cases as needed—as Judge Cole did until 1991.

During his tenure, Judge Cole presided over some of the most notorious criminal trials in Jefferson County. He was known for his sometimes stern demeanor in court. He was also known as one of the most conscientious and hard-working jurists in Alabama.

Judge Cole was a native of Towson, MD, and a graduate of the University of Maryland School of Law. He served as an FBI agent during World War II, beginning law practice in Birmingham in 1946 where he was a founding partner of the firm Jenkins, Cole, Callaway, & Vance.

Judge William Cole was an outstanding judge who contributed much to the legal community throughout his career and will be greatly missed. I extend my sincerest condolences to his wife Susan and the rest of his family in the wake of their tremendous loss.

THE CLOSING OF KORBET'S RESTAURANT

Mr. HEFLIN. Mr. President, a longtime fixture of the Mobile, AL, area, Korbet's Restaurant closed in January after serving customers—including me and some of my staff—at the same location for 45 years. The restaurant on Airport Boulevard was a part of Mobile's Loop area beginning in 1949, when owner Nick Catranis' mother and father-in-law—George and Katie Kordomenos—moved there from their Victory Cafe in downtown Mobile. The name for the restaurant came from the first three letters of their last name combined with the first three of a partner's name.

Nick Catranis married Ethel Kordomenos and joined her family's business in 1963, managing Korbet's for the next 32 years.

Nick issued a letter to his loyal customers in December giving a heartfelt description of his family's struggle against changing times and the personal sacrifice it took to keep the operation running. I ask unanimous consent that a copy of the letter be printed in the RECORD following my remarks. It is illustrative of the kinds of difficulties many small companies face in today's increasingly competitive business climate.

THE PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. Mr. President, it was sad to see Korbet's close. It was one of the last of a vanishing breed of mom-and-pop businesses that add so much flavor and character to a community or neighborhood. I congratulate Nick and Ethel Catranis for bringing so much dining pleasure to the Mobile area for so many years, and wish them all the best for the future. Korbet's is sorely missed.

[Exhibit 1]

KORBET'S RESTAURANT,
Mobile, Ala., Dec. 27, 1994.

DEAR KORBET'S RESTAURANT CUSTOMER:
Korbet's Restaurant has been a part of many families in the Mobile area since 1949.

Mr. and Mrs. George Kordomenos started Korbet's in 1949 when they came to this location from the Victory Cafe in downtown Mobile. Their devotion to their profession, to the community and their desire to succeed made Korbet's Restaurant an institution in Mobile. They created a Mobile tradition for what would be a family gathering place for generations: a place where people proposed marriage and returned year after year to celebrate their anniversary; a place where people celebrated graduations, retirements and other occasions; a place where families gathered for Thanksgiving and other holidays.

In return they accomplished "the American Dream." They helped their relatives back in the country that they left, they educated their children and saw their grandchildren become doctors, businessmen and pharmacists.

In 1963, my wife and I came into the family business and worked together with Mom and Dad. Then, in 1968, Dad, Mr. George Kordomenos, passed away and as you all know, Mother, Mrs. Katie Kordomenos, passed away last year.

Managing this restaurant for 32 years has taken its toll on me, I have become too wrapped up in my work. I have missed many things in my life such as not seeing my children grow up.

On January 14, 1995, Korbet's Restaurant will close its doors and will no longer serve Mobilians.

This decision is not a sudden one; it has taken much contemplation, has stirred many emotions, and has been of great consideration for many months. We feel that we have served the community as best as we personally could. As we move out of the restaurant business and diversify, we feel that we will be serving our community in other ways.

My belief for success has been that you have to get down in the trenches and work with your employees. That is what I have done and together, we have been successful.

However, in recent years the restaurant industry has made many changes; our governing bodies have imposed many new taxes, regulations, and restrictions and so the time has come for us to move on.

Turning one's back on a business such as this is hard to do. I am lucky and blessed that I'm able.

My wife Ethel, my children, and I want to thank each and every one of you, our customers and fellow workers, for your loyalty throughout the years. We sincerely regret this move.

We want to thank our many suppliers who have made our survival possible by providing quality products so we may serve our many customers throughout the years.

To all the realtors of Mobile and the many politicians who had their business meetings

here and in turn molded and reshaped the city of Mobile—they changed the borders, the subdivisions, the streets, the shopping centers—we thank them and feel that we were a part of all this, too.

To the many busboys and busgirls that worked here during their school years: this being their first job in life, and where we tried to instill in them and try to teach them the importance of work in life, and where they have gone and become professionals, good citizens, and raised families. We thank them for their contribution.

To the many waitresses, cooks, cashiers, and managers who worked endless, long and hard hours and have raised their families and educated their children: we thank you for your contribution.

To our many loyal customers and the many that we have spoiled: nothing could have been possible without your loyalty—we will always cherish your friendship and loyal patronage.

And finally, to my wife and children, whom I deprived many things for 32 years by working all day and all night often till 2:00 a.m., thank you for your support.

And now Korbet's Restaurant will go down in history as other great family businesses have, such as Hays Davis Packing, Constantines Restaurant, Gulas Restaurant, Metropolitan Restaurant, Government Street Lumber, Wintzell's Restaurant and many others.

On behalf of our management and staff, we want our customers to know you will be missed.

And so as the world goes around, so must we.

Sincerely,

NICK AND ETHEL CATRANIS.

PRESIDENTIAL INITIATIVE TO RESPOND TO GULF WAR VETERANS' NEEDS

Mr. DASCHLE. Mr. President, last month we commemorated the 50th anniversary of Iwo Jima. Iwo Jima holds a special place in our national consciousness because of the mythic heroism of those who fought there—and because of the ultimate sacrifice made by those who died there.

Grateful as we are to the veterans of Iwo, the truth is: Every veteran has performed an act of heroism, and every veteran deserves this Nation's support. Not simply our gratitude. But our support, while they are on the battlefield, and after they leave it.

This week, during an address to the Veterans of Foreign Wars, President Clinton announced a number of initiatives that will provide for some of our newest veterans—the veterans of the gulf war—the support which they clearly need and deserve.

I want to focus in particular on one of those initiatives.

The President announced that he is creating a Presidential advisory committee on gulf war veterans' illnesses. This will be the first fully independent panel to examine the issues surrounding what has come to be known as gulf war syndrome, the chronic medical problems suffered by many gulf war veterans and, in some cases, their spouses and children.

There are currently 30 studies being conducted on the gulf war syndrome.

The advisory committee will act as a clearinghouse. It will coordinate research efforts into the causes and treatment of gulf war-related illnesses.

It will also conduct aggressive outreach efforts to make sure that gulf war veterans and the medical professionals who treat them are kept fully informed of any advances.

The advisory committee will work with the Departments of Veterans Affairs, Defense, and Health and Human Services. And they will report directly their findings and recommendations directly to the President before the year is out.

America showed 4 years ago during the gulf war what we can accomplish when we mobilize all our resources to achieve a goal.

The veterans of that conflict are now relying on us to marshal our resources once again to provide them with the medical care they need and deserve.

Whether an injury is diagnosed or undiagnosed; whether it was caused by a bullet, by some invisible, poisonous gas, or by any other factor, it is still a service-related injury, and the man or woman who suffered it deserves our support.

In the last session I worked with my friend and colleague Senator ROCKEFELLER to develop legislation that would give VA the authority to pay compensation to ailing gulf war veterans, even if the exact nature of their illness has not yet been diagnosed. Congress passed that legislation because it was the right thing to do.

For more than a decade, I fought to gain compensation for veterans whose illnesses were caused by exposure to agent orange in Vietnam. That battle was won eventually, but only after a science proved what commonsense already told us: that there was a clear scientific link between agent orange and the illnesses.

Let us not repeat that mistake.

When the men and women who fought in the gulf were called to serve they did not say, "Let us conduct a study." They did their duty.

Now a grateful Nation should do its duty.

The President's advisory committee will help us perform that duty with the least possible duplication or delay.

As a veteran myself, and as a grateful American, I salute the President's initiative.

PEACE IN THE MIDDLE EAST

MR. PRESSLER. Mr. President, It was just ten months ago when Israeli Prime Minister Yitzhak Rabin and Jordan's King Hussein came before this body—and the world—to make an unprecedented call for peace in the Middle East. This week, Secretary of State Warren Christopher travels to Israel in

an effort to jump start the peace process and help forge an agreement between Israel and Syria over perhaps the most vexing issue of the peace process: the status of the Golan Heights. However, as the people of Israel know all too well, the road to peace is a long and arduous one. Now more than ever, we must bolster our support for our greatest ally in the Middle East—Israel—and adopt her mission of regional peace as our own.

Without a doubt, a peaceful environment of mutual self-determination and co-existence in the Middle East is advantageous for the United States. I need not remind this body of the binding political and cultural ties that this country maintains with Israel and the great potential that an Arab-Israeli peace would have for the United States. The peace process is not solely an opportunity for improved Arab-Israeli affairs, but a unique occasion upon which the United States may attempt to ally herself with countries that, in the past, have vehemently refused to open their doors to the West.

Syria represents perhaps the last great obstacle to regional peace. The Syrian mandate for a single, complete Israeli withdrawal from the Golan Heights has resulted in a year and a half impasse in Syria-Israel negotiations. Arbitrary demands for withdrawal as a condition of cooperation cannot be viewed as a good faith effort to achieve peace. Without a doubt, Israel is correct to insist upon a comprehensive peace agreement with ironclad security arrangements before it begins any pullback from the strategically vital Golan Heights. Israel should not be asked to risk the security of her people in return merely for the possibility of better relations with Syria.

Mr. President, I sincerely hope that Secretary Christopher's latest round of shuttle diplomacy with Israel and Syria results in a renewal of the peace process. Clearly, Secretary Christopher needs to convey to the Syrian government that real concessions must be made in order for the Syrians to demonstrate they are serious about peace. The United States cannot agree to turn a blind eye to Syria's drug trade in exchange for cooperation in the peace process. Rather, Syria must take the initiative to stop being a safe-haven for terrorists and drug lords. That kind of action represents a genuine commitment to the peace-making process. Paper pledges and handshakes do not suffice.

Some have suggested that the recent peace talks are just cause for the United States to scale back its financial commitments with Israel. I disagree. The United States can best support the fragile peace process by continuing its investment in Israel's economic and military strength. The financial assistance we provide each year is in our national interest. Without it, Israel

would be unable to deter potential threats and would fall victim to regional extremists. An economically vigorous Israel is the single most important element to sustain any peace agreement with her neighbors. For the past forty-six years, we have refused to manipulate Israel by bartering economic assistance for political influence. We have continually voted to avoid jeopardizing Israel's stability, at the bequest of our constituencies and our consciences. That course of action has put us on the path to peace. Therefore, I urge my colleagues to pursue our present course rather than consider options that have the potential of debilitating our sole democratic ally in the region during this delicate transition.

Eleven years ago, Congress endorsed the relocation of the United States Embassy in Israel from Tel Aviv to Jerusalem—a symbolic recognition of Jerusalem as the true capital of the State of Israel. It is time to call upon the United States government to begin the formal process of recognizing Jerusalem as Israel's capital city. To be sure, the acknowledgement of Jerusalem as the political center of Israel would not alienate the religious rights of Arabs or Christians. As Prime Minister Rabin recently stated before the Knesset, "[Jerusalem] has been * * * and forever will be the capital of the Jewish people." By clarifying our position now, instead of during sensitive "final status" negotiations, the United States would expedite the peace process. In doing so, we would represent the American people, assist our ally, and help preclude any existing false hopes among Palestinians.

Mr. President, though I no longer sit as a member of the Foreign Relations Committee, I will continue to monitor closely the events in the Middle East. Very few current foreign policy issues bear greater relevance to this nation than the security of the people of Israel. We must stand side by side with Israel's democratically elected leadership in the struggle for lasting peace. As the world's sole superpower, we must be unrelenting in our support of our allies, especially Israel who bravely stands alone as the Middle East's sole democracy. It is the responsibility of the United States to foster the peace process, and not to undermine our ally's regional goals during this time of transition. We must work to see the day when the people of Israel can turn to all its neighbors in the Middle East and say "Shalom Aleichem"—"Peace be with you."

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, as of the close of business on yesterday, Thursday, March 9, the Federal debt stood at \$4,846,101,629,353.21. On a per capita

basis, every man, woman, and child in America owes \$18,395.89 as his or her share of that debt.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

EMERGENCY SUPPLEMENTAL AP- PROPRIATIONS AND RESCIS- SIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 889, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers amendment No. 330, to restrict the obligation or expenditure of funds on the NASA/Russian Cooperative MIR program.

Kassebaum amendment No. 331 (to committee amendment beginning on page 1, line 3), to limit funding of an Executive order that would prohibit Federal contractors from hiring permanent replacements for striking workers.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 331

Mr. SIMON. Mr. President, I rise in opposition to the pending amendment, which is the KASSEBAUM amendment.

I would like to make one brief point. Later I will probably speak on some other points. But in 1935 when Congress passed the National Labor Relations Act, section 13 stated:

Nothing in this act, except as specifically provided for herein, shall be construed so as either to interfere with or impede, or in any way diminish, the right to strike, or to affect the limitations or qualifications on that right.

Then in 1938 in the Mackay radio case, the Supreme Court interpreted that as permitting permanent striker replacement. But that really did not happen in our country to any great extent and has not happened up until very recently. By tradition, we have worked things out, and we have avoided what most Western industrialized countries have outlawed. But the point I want to make is that in the discussion on the floor of the Senate, it has been assumed that the President's Executive order is as sweeping as our proposal last year on prohibiting permanent striker replacement. It is nowhere near as sweeping. It gives no additional powers to the National Labor Relations Board.

Let me just read two pertinent sections. This is the President's Executive order.

It is the policy of the Executive Branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies shall not contract with employers that permanently replace lawfully striking employees. All discretion under this Executive order shall be exercised consistent with this policy.

Then section 4(a):

"When the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary may"—no mandate—"may debar the contractor thereby making the contractor ineligible to receive government contracts."

It is much more restrictive than the legislation that we had before us last year that a majority of the Senate voted for but because of our filibuster rules we were unable to pass.

I will hold off saying anything further at this point, Mr. President. I will have some further comments before long.

I see my colleague, the new Senator from Oklahoma, here. I believe he wishes to speak.

So I yield the floor, Mr. President.

The PRESIDING OFFICER. The pending question is amendment No. 331 offered by the Senator from Kansas to the committee amendment on page 1, line 3 of the bill.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have been very disturbed during the debate on the defense supplemental appropriations. I just wanted to make a couple of comments not directly addressing the KASSEBAUM amendment but the appropriations itself.

I really believe this is one of the few times that I can stand here and say I do not know for sure how I am going to vote on this. I am a member of the Senate Armed Services Committee. When I was in the House of Representatives, I was a member of the House Armed Services Committee.

I find that we are in a way endorsing what I refer to as a flawed foreign policy when we come up in our forces to have supplemental appropriations to pay for various maneuvers and various missions that our military has pursued while we clearly disagree with those. As an example, I would suggest that, if the President had come to Congress, or to the Senate, and said is it going to cost \$17 million to send troops to Rwanda, we probably would say "no" and we would not have to incur these costs.

The same thing would be true in Somalia—recognizing that in Somalia we originally sent them in December, under a previous administration, however. I think they were sent over for a humanitarian mission not to exceed—I believe it was—90 days initially. Then after that, each quarter we would have

resolutions in order to try to bring the troops back home. That ended up costing \$17 million.

If the President had come to Congress and asked Congress to appropriate \$312 million to send troops to Bosnia without a well-defined mission there, certainly not having anything to do with our Nation's events, without having anything to do with our Nation's security, I suggest we would have said "no." The same thing is true; \$367 million to Cuba, and then there is Haiti. This appropriation is going to have \$595 million to support what nobody really knows we are doing in Haiti. I can assure you, Mr. President, that if the President had come to Congress and said we are going to ask you for \$595 million so we can send troops into Haiti to help them with problems they are having, it would have been rejected. So here we come along later and are forced to do it.

I hesitated in voting against it, Mr. President, because it is not the military's fault. It is not their policy. They did not decide to go into Haiti. It was not their idea to go to Somalia, Bosnia, or Rwanda. If we do not do this, they are going to be forced into taking it out of their personnel accounts, their operation accounts, R&D accounts. And there are no spare dollars right now in any of those accounts. In fact, we are operating under a budget in this fiscal year that is comparable to the budget we had in 1980 when we could not afford spare parts.

So I have sat in these meetings and talked to the Chairman of the Joint Chiefs of Staff, as well as the Chief of Staff in the various services. I listened to them about the problems they have right now with their budget, in trying to keep America strong. I cannot conscientiously say take it out of our R&D budget just because I disagreed with the missions for which this money is being spent.

So, Mr. President, I wanted to get on record that I am very disturbed with the system. I hope we can establish some type of a system where those of us who are going to be asked to appropriate the money to pay for these missions will have some voice in making the decisions as to what we are doing with our armed services.

I yield the floor.

Mr. SIMON. Mr. President, if I may get back to mundane things that we talk about here, amendments—and it is good, not simply as a tribute to the Chaplain but it is good for us to pull ourselves back and remind each other there are things more important than these amendments we vote on, and we too easily forget.

Mr. President, let me comment again on the amendment that is before the Senate. It is very easy to forget we are talking about people, real people who are struggling for a living when we talk about people who go on strike.

I just have been going through some testimony given a couple of years ago by people who were struggling. I just this morning was with Senator KENNEDY, who held an informal session with a number of people who spoke on the need for a minimum wage. Two people I remember particularly. One is—and I believe I have his name correctly—David Dow, who has two children, a daughter 2, a son 1. He and his wife went 1 year to college. Then their first child was coming along so they had to quit.

They are struggling on the minimum wage. They cannot afford health insurance. They are paying \$75 a month for their student loan, making that payment on the minimum wage. And he just told about the struggle he is going through.

These are real people we deal with when we are talking about a minimum wage. It is not some theoretical thing.

There was a small employer there who said he would like to pay the minimum wage if everybody else had to raise their minimum wage so we would all be on the same level.

We are talking about—and here they are judgment calls; I recognize that, but we are talking about trying to maintain some sense of balance in our society. I think that is what is needed in this area of permanent striker replacement. All the other Western industrialized nations, with the exception of Great Britain, Singapore, and Hong Kong, outlaw permanent striker replacement. Italy, Greece, France, Germany, Portugal, Spain, Denmark, Norway, Sweden, Finland—I am sure I am forgetting a few—Japan, all of them outlaw permanent striker replacement, and they do it for a very solid reason, that there is an imbalance. I say this as a former employer who was in business myself. There is an imbalance. Obviously, it is a struggle for a small business person. It was not easy for me in business. But as an employer I am at an advantage over somebody who is just struggling to pay a mortgage and to get by.

And so we had built into our structure certain things that give some power to the employees. While we have not outlawed it as a result of the Mackay Radio decision in the Supreme Court of 1938, with only three exceptions in large businesses we have exercised self-restraint and avoided having permanent striker replacements.

I think it is important that continue. I have been working with both sides in the Caterpillar strike in Illinois. Let me add I have great respect for Don Feits, the chief executive officer of Caterpillar, and Owen Biever, the president of the United Automobile Workers.

My feelings are, if we just turned this whole thing over to the two of them, we would get it worked out. But if at

Caterpillar you were to have permanent striker replacements, in a community like Peoria, it would just tear that town apart. It just would not be good. I think virtually everyone recognizes that. While that is a more volatile situation because of the concentration of employees of one company, I think we have to recognize we have to have balance, and that means, among other things, labor and management working together more than we have traditionally done. Germany has something they call *mitbestimmung* where an officer of the union is on the board of the corporation, but when that corporation talks about what they might offer to the unions in terms of concessions when they go to a contract, that union representative absents himself. But that way the unions get a chance to understand the problems of management and management gets to understand the problems of the unions.

It is also important they work together and get together for a cup of coffee, a beer, whatever, and just talk things over informally. Do not wait until you get to contract time. But occasionally we have situations that get to the extreme, and I do not think we should let that extreme go to the point of having permanent striker replacements. I think that puts things out of kilter. I do not think we should be in a situation where we want to encourage it.

The President's Executive order does one thing and one thing only. It says if we are going to buy supplies, we will not buy them from people who have permanent striker replacements, or at least we have that option. That is up to the Secretary of Labor.

My hope is that we will not adopt the Kassebaum amendment. My hope is, frankly, that the President, if that should be part of this bill, even though he needs this emergency supplemental appropriation, would veto it and say give me a clean bill on what we need in the Defense Department. I know that postpones things for the Defense Department, and I know they would not be happy about it, but the better answer is for us not to accept the Kassebaum amendment and to move ahead and maintain this important balance between labor and management that we need in this Nation.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent that I may speak as in morning business for no longer than 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

THE DAY-TO-DAY ACTIVITIES OF CONGRESS

Mr. CRAIG. Mr. President, I have before me at this moment the National Journal's Congressional Daily. It is a report of the activities of Congress on a daily basis, referring to what committees are doing both in the House and the Senate and also reporting on the executive branch of Government. It is one of those documents that many of us often refer to as an accurate accounting of the day-to-day activities of the U.S. Congress.

I thought it was appropriate to bring before us at this time. A week ago, we finalized debate and voted on a balanced budget amendment to our Constitution. At that time, we failed to get the necessary 67 votes by 1 vote. Immediately following that, we saw a precipitous drop in the value of the dollar on world currency markets, which actually continued through most of this week, only to be abated by Alan Greenspan coming to Capitol Hill and talking to a House committee on the need for congressional action as it relates to deficit reduction. That seemed to, at least for a time, level out the decline of the dollar.

One of the things that has concerned me—and I see the Senator from Illinois on the floor at this moment, who was one of the major leaders in the balanced budget amendment issue—and has concerned the Senator from Illinois for so long is the inability of Congress to manage the deficit. And even though there have been many tries made over the last several years, it was this inability that brought me, several years ago, to the conclusion that only a constitutional amendment to balance the budget would change this scenario.

I am not going to speak of the intentions of this President, but I will only say that this President, since he came to office, convinced this Congress that with a major tax increase in what was called a deficit reduction package, that he could reduce the deficit, he could control the out-of-control Federal budget.

Yet, this year we saw this President bring to the Hill a budget that is not reflective of a declining deficit. In fact, most assume that this administration has largely given up on their ability to bring the deficit near balance and that it is now moving up again. The reason I thought it was appropriate at this moment to mention that is that, in today's Congressional Daily, it says President Clinton's fiscal 1996 budget would cause the Federal deficit to climb \$82 billion higher by the year 2000 than the administration has estimated, according to the Congressional Budget Office.

The article goes on to talk about preliminary studies or examinations

which show that, by 2000, the deficit will still be in the \$276 billion-and-climbing range.

The point I want to make is very simple. Once again, it is clearly reflective that this Congress and this President cannot and have not been able to control the Federal deficit. While this President may have tried, it is obvious that, under their own budget figures, whether it is lack of an adequate estimate or whether simply a failure to make the necessary cuts, he, too, is missing a Federal budget deficit projection in his own budgets by \$82 billion.

That is a phenomenal amount of money under anyone's estimation and certainly it is by ours. If the budget were out of balance by \$82 billion, then I think the Senator from Illinois and I would say, well, that is a major and a good-faith effort. But this is the estimate of a budget that is out of balance by nearly \$300 billion, as it will be \$82 billion higher.

Those are the problems we face that I think so clearly dramatize, day after day, year after year, why we need a constitutional amendment to balance the Federal budget.

Mr. SIMON. Mr. President, I want to join my colleague from Idaho in his efforts in this area. I would give the President a little more credit than he might in terms of what the President did in 1993. There is no question we made some progress on the deficit.

But the budget that has been submitted by the administration is illustrative of the fact that these things kind of ebb and flow. They go up and down like a roller coaster. Right now, I think the mood in Congress, after our lengthy discussion of the constitutional amendment, is we want to do something. And I think we may pass some statutory action to move us in that direction. I have no confidence, however, that statutory action this time, any more than in the past, is going to get us there. Because while today the mood is "Let's do something about the deficit," tomorrow, who knows what the mood will be? And so we will move away from that.

So I join my colleague in believing that that is the direction in which we have to go and one of these days, I believe it will happen.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

Mr. BYRD. Will the Senator withhold?

Mr. SIMON. I withdraw my request. (Mr. CRAIG assumed the chair.)

BALANCING THE BUDGET

Mr. BYRD. Mr. President, may I suggest that to both of my good friends, the Senator from Idaho and the Senator from Illinois, why do we not just quit talking about the balanced budget

amendment and get on with balancing the budget?

The President has proposed an \$83 billion tax cut. Let us vote it down. The Republicans, in their so-called Contract With America, have urged that we have something like a \$200 billion tax cut. Let us also vote that down. Let us get out here and say that we are against any tax cuts at this time.

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. No, I am not ready to yield just yet.

Let us say we are against tax cuts; just vote them both down. This is no time to talk about tax cuts while balancing the budget.

We are all concerned about budget deficits. We are concerned about passing this huge debt on to our children and grandchildren. Let us do something about it. Let us do it now.

We have heard the advertisement on TV, "Do it here. Do it now." Let us vote down both proposals for tax cuts.

Why do we not consider a tax increase? Let us increase taxes. Surely, we could sit down and, working together, could come up with a reasonable tax increase that would be calculated and directed toward reducing the deficits.

We have operated on a national credit card now for 14 years. During the 12 years of the Reagan and Bush administrations, we were on a national credit card binge: Enjoy today, pay later. Let our children and grandchildren pay for our profligacy. Live for today.

One can only cry so much over spilt milk, and it does not do any good after awhile. So why do we not just get on with balancing the budget? Let us help this President. Let us help him to balance the budget. First of all, vote his \$83-billion tax cut down.

I have been somewhat critical of the tax cut that the President has advocated. I try to be constructive about it. But I think we also ought to be critical of the more-than-\$200-billion tax cut that is being advocated by our Republican friends. That is not going to balance the budget.

"Oh," they say, "we will offset our tax cut. We can find \$189 billion to offset it." Let us take a look at what they are going to offset, first, Mr. President. And then, whatever can be offset, whatever can be reasonably offset, let us apply that to the deficit.

Now, the Senator asked me to yield.

Mr. INHOFE. Mr. President, I thank the Senator from West Virginia for yielding.

The Senator asked a question, and the question was: Why not pass a tax increase? I suggest to the Senator from West Virginia that we passed, under the Clinton budget in 1993, what has been characterized as the largest single tax increase in our Nation's history.

All too often, we go back and say what a great job the administration did

and we have these wonderful reductions in the deficit. I suggest to the Senator from West Virginia that a lot of people out there are learning that that kind of talk is not being very honest.

There was an article in Reader's Digest, I believe it was last December, the name of which was "Budget Baloney." In that article, they said, to let you know how they do things in Washington, a guy who has \$5,000 who wants a \$10,000 car, all he does is say, "Well, I really wanted a \$15,000 car, but I settled on a \$10,000 car. So I reduced the deficit by \$5,000."

We played games for so long that I think we have an awareness and an understanding by the public out there that they did not have in years past.

I can recall one of your very good friends that you served with, Senator Carl Curtis of Nebraska, way back in 1972 was trying so hard to convince the American people that we could not continue on this road of increased deficits. Our deficit in 1972 was \$15 billion. I remember this so well, because they tried to get the people of America to understand how significant the debt was, and they stacked up \$1,000 bills until they were the height of the Empire State Building to try to impress upon people how significant the debt was. The debt at that time, in 1972, was \$240 billion.

The first question you asked was, you know, why do we not do something about it if we want to reduce the deficit? That is a very legitimate question.

But I think that we, in the two bodies here in Congress, have demonstrated over the past 40 years that we are incapable of doing it without having some type of discipline there that we are forced to adhere to.

Mr. BYRD. Mr. President, I thank the Senator for his contribution.

Here we go again, saying that we need some kind of discipline to force us to act.

I do not know when we are going to stop breaking the mirror in the Alice in Wonderland story.

The Senator says we passed—we passed in 1993—the greatest tax increase. No, "we" did not pass it. Not a Senator on that side of the aisle voted for that tax increase. Not a Senator. Not a House Member on the Republican side of the aisle voted for that tax increase. Moreover, not one Republican on the Senator's side of the aisle or in the House on the Republican side voted for that same 1993 legislation, which, overall, reduced the budget deficits by somewhere between \$450 billion to \$500 billion. And it really has done better than that. The deficit has decreased 3 consecutive years in a row.

The Senator does not want to vote for a tax increase, but the Senator's party is advocating a tax cut of over \$200 billion.

Now, who can possibly stand with a straight face and say, "Let's cut the

deficit," and, at the same time, come in here day after day and talk about the President and how he has failed to cut the deficit, how the President has failed to exemplify leadership, who could do that with a straight face, and then turn around and say, "Let's cut taxes"?

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. Not yet. I will yield in a moment.

The Senator's party is the party that is out here advocating cutting taxes louder than anybody else.

I think it is folly to cut taxes in this climate. It is folly, whether it is my President advocating it, or whether it is the so-called Contract With America. It is silly.

I cannot look my grandchildren in the eye and say "Well, I am for cutting taxes. I would rather have you live with the problems that we leave." I cannot say that to my grandchildren. "I would rather have you live with the problems that we have created in our time. I prefer that you increase taxes in your day and time."

Do not talk to me about cutting taxes. I think that is a bad message.

But we say, "Cut taxes." What utter folly! Now, the Senator's party is advocating cutting taxes. I do not see how they can do that with a straight face and come here on this floor, day after day after day and moan and groan and gnash their teeth over the fact that the balanced budget to the Constitution has been voted down. Now they say that that is the cause of the drop in the dollar. That is the cause of this, that, everything else.

But yet, not a word do they say—not a word—about the \$200-plus billion tax cut that is being advocated by the so-called Contract With America.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. Yes, I will yield in a moment, Mr. President.

Furthermore, I say to my friend from Oklahoma, who says we have played games, we are playing games. Yes, I was here when we played games during the Reagan administration. Read David Stockman's book, and he will tell the Senator from Oklahoma who played the games down in the Oval Office. He will tell the Senator who played the games in the Reagan administration with hidden asterisks.

I urge all Senators to read David Stockman's book. As a matter of fact, I may bring a portion of it to the floor after a while and read it. It is enlightening. Yes, I was here when the Reagan administration blew into town. And in all of the 39 previous administrations—182 years of administrations under various political parties—the Nation had accumulated a total debt of less than \$1 trillion.

I saw Mr. Reagan get on television with that chart, pointing to that stack of what he called, would represent a stack of \$1,000 bills, "Have a stack four

inches thick and you will be a millionaire." He said it would take a stack of \$1,000 bills 63 miles high to be representative of the debt that had been accumulated in all the administrations going back to the year 1789.

He never appeared on television with that chart again, Senator. Know why? Because during his administrations the debt reached to a total of over \$3 trillion, and then, during the Bush administration, it reached \$4 trillion. So, to represent that debt on the chart, with \$1,000 bills stacked into the stratosphere and beyond, would probably require a stack of bills that would reach 252 miles into the sky, or some such.

I saw the debt triple. I saw it quadruple. Further, may I say to the distinguished Senator, I went down to see Mr. Reagan. I urged him not to press for his triple tax cut in 1981. He proposed a 3-year tax cut—the first year 5 percent, the next year 10 percent, and the third year, 10 percent—all in one passage. I urged him to at least leave off the third year until we could evaluate the economy, the deficit, what was happening to the dollar, interest rates, unemployment. At least, leave off the third year and wait 2 years, and then if he felt compelled to go for the third year, then try it. Why go for a 3-year tax cut all at once? He never could tell me why, never. He looked at his little card, the notes on the card, but he never could answer that question.

So now we have the aftermath of the Reagan tax cuts of 1981. I voted for his tax cuts. I have always regretted it. My constituents back home said "Give the man a chance. Give this new President a chance." I gave him a chance. I have regretted it ever since. There is blame enough to go around, Senator.

The Senator from Oklahoma has talked about the last 40 years. Do not go back that far. Just go back to the fiscal year 1981 budget. Start there. Start there and see then what happened.

I yield.

Mr. SIMON. Mr. President, I agree with two-thirds of what my colleague from West Virginia has to say, and he knows I differ on the balanced budget amendment.

I do believe, however, in the immediate choices that we face, one is a tax cut. I think it makes absolutely no sense. When I was in the House I voted against the Reagan tax cut and I voted against the Democratic tax cut. We were in a bidding war, we are in a bidding war again. I am going to vote against the Republican vote, and I am going to vote against the Democratic tax cut. I do not think they make any sense at all.

In terms of tax increases, I think the political reality is we can only pass them if they are for designated purposes. The American public—if we need it for balancing the budget, it is very interesting—53 percent of the Amer-

ican public says they are for balancing the budget, even if it means they have to sacrifice. I think they are willing to face that.

In 1990, if I may be immodest, I faced reelection. One of the things my opponent, a very distinguished woman who served in the House, Lynn Martin, used against me, is that I said I think we need increases in Federal taxes to balance the budget.

I can remember reading in Roll Call that I was destined to defeat. I ended up getting the biggest plurality of any contested Senator of either political party running for reelection that year. I think people want to be told the truth.

The reality is on tax increases—if we take the 18 Western industrialized countries as a percentage of our income—we pay a lower percentage than any of the other countries. We have the lowest tax on gasoline of any country outside of Saudi Arabia. We have the lowest tax on cigarettes. We do not have a value-added tax that many countries have. But I think the reality is we have to tie any kind of revenue increase with something concrete, like a health program. Or like getting rid of the deficit.

As my colleague who is presiding, Senator CRAIG, knows, I have said all along that I think we have to combine cuts in spending to achieve a balanced budget with increases in revenue. I think that is the reality.

I do believe—and here I differ with my colleague from West Virginia—I do believe the only way we are really going to get a balanced budget is with constitutional restraint. I respect the fact that he and I differ on that question. I thank him for yielding.

Mr. BYRD. I thank the Senator. We do not have to wait. We do not have to wait for a constitutional amendment.

Mr. SIMON. I agree.

Mr. BYRD. Putting that aside entirely, I have many reasons for opposing the constitutional amendment to balance the budget. I am not against amending the Constitution. I have voted for five amendments to the Constitution since I have been in the Senate. Enough of that.

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. The framers saw a need for amendments at some point in time, so they provided a way to do that in the Constitution itself. But I am opposed to amending the Constitution to write fiscal theory into it, fiscal policy. I am also opposed to destroying our constitutional system of mixed powers and checks and balances by a constitutional amendment to balance the budget.

I respect those who differ with me, but why do we keep on talking about a constitutional amendment? We Senators have as much power as Senators in the year 2002 will have. Why wait?

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. I will in a moment. Why wait? Why not do it now? Instead, we continue to hear those who are up here every day pining over the loss of the balanced budget amendment, still bewailing the loss of the constitutional amendment that they say would give us discipline, that would put a little iron in our backbone; that great constitutional amendment, still crying over it, weeping, bemoaning the days of the past when the Senate voted down that monstrosity—killed it.

I hope that Senators will stop whining and weeping and bemoaning that vote. Let us get on with balancing this budget that they want so much to do. Let us get on with doing something for our children and grandchildren, which the Senators say they want so much to do. And, first of all, may I say to my friends on the other side, stop talking about Mr. Clinton until you yourselves are willing to vote for a deficit reduction package that he helped us to work out. You did not demonstrate your willingness to do that.

The Senator from Oklahoma was not here at that time, of course. But Republican Senators did not demonstrate a willingness in 1993 to exercise a little discipline, a little steel in the backbone. They used the excuse, and still use it, that it increased taxes.

I say, let them haul down the banner, haul down their own party banner of a tax cut. It is silly—silly—whether you use the old math or the new math. How in the world can anyone with a straight face get up here day after day and complain about a balanced budget constitutional amendment that was rejected and, at the same time, support a so-called Contract With America that would advocate a \$200-billion-plus tax cut? That is what the Republican leadership is doing, advocating over \$200 billion in tax cuts to the middle class.

If we really mean business about reducing the deficit, that will bring more relief to the middle class and every other class in this country and to our children and to our children's children, let us get on with balancing the budget, and not rule out the raising of taxes. That is a tool that could be used to balance the budget and to decrease the deficit. I am not on the Finance Committee or the Ways and Means Committee, but I certainly am open to suggestions as to how we might enact a tax increase that would be calculated and directed toward reduction of the deficit. There are many people in this country who can afford such a tax. Do not put the tax option off the table. At least leave it on the table as something to consider.

Yes, I yield.

Mr. INHOFE. The distinguished Senator from West Virginia has asked the question a couple of times that I previously answered, and that question is, What are we doing? I think, I say to the Senator, that if we have demonstrated that we have been incapable

of doing it, that we are incapable of facing up to that insatiable appetite for spending money that future generations will have to pay back, year after year after year, then that should be evidence enough the discipline, the word you do not seem to like, is necessary.

Mr. BYRD. Oh, I like the word discipline. I like it. I like the word discipline. I have no problem with the word discipline. Let us discipline ourselves now. Let us not wait until we garble and scar the Constitution waiting on some magic discipline that that might give us. Let us exercise discipline now.

Mr. INHOFE. Let me repeat to the Senator from West Virginia.

Mr. BYRD. I yield.

Mr. INHOFE. We have demonstrated we are incapable of doing it—

Mr. BYRD. No, we are not incapable.

Mr. INHOFE. Year after year after year.

Mr. BYRD. No, no.

Mr. INHOFE. Some 48 States—in 1941 in Oklahoma, we were incapable of doing it. We passed a balanced budget amendment and it worked.

I want to address one other thing that you mentioned and—

Mr. BYRD. On that point—Mr. President, I have the floor—on that point about the States, the States do not balance their budgets in the sense that we are talking about balancing the Federal budget. The States have operating budgets. The States have capital budgets, and the Senator knows that. And to use that old canard is to fool the American people. The American people know that the States do not balance their budgets. The States borrow money, the States are in debt, the States are going more and more into debt every year.

Mr. INHOFE. Will the Senator yield on that?

Mr. BYRD. Yes.

Mr. INHOFE. They borrow money, but the difference is the States pay the money back.

Mr. BYRD. Oh—

Mr. INHOFE. The cities pay it back. I served in the State legislature.

Mr. BYRD. So did I.

Mr. INHOFE. I served as mayor of a major city, the city of Tulsa, and we have those constraints beyond which we cannot spend. It has worked very effectively. I did not get to the point I wanted to.

Mr. BYRD. On that point, let us stay with that point. I was majority leader when the Governors and the mayors of the country came to Washington with their hats in their hands and their hands out.

Mr. INHOFE. No, not this mayor. I was a mayor when you were majority leader.

Mr. BYRD. I did not say anything about the Senator. I was saying I was majority leader once. I was majority

leader twice, and I saw the Governors of the States and mayors. I talked with them on the telephone. They called me on the telephone. They wanted this help; they wanted this aid; they wanted that aid; they wanted this appropriation increased. Do not talk to me about the great job the mayors and Governors have done throughout this country in balancing their budgets without help from the Federal Government.

Now, that is not to say that mayors and Governors have not taken strong actions to try to curtail expenditures. I do not say that at all. But do not come here trying to tell this Senator that the States balance their budgets. They do not do it, and they get a lot of help from the Federal Government. I know. I have met them right there, back there in my office and right over here in that office when I was leader. Do not tell me that stuff.

Mr. INHOFE. Will the Senator yield further?

Mr. BYRD. I know different. Yes, I yield.

Mr. INHOFE. I wanted to address this subject of the tax increase that you seem to be advocating at this time. There is a great misunderstanding about tax increases. When you look at what our problem is today, I offer a very friendly alternative to your philosophy, and that is, our problems are not that we are taxed too little, we are spending too much.

When you talk about a tax reduction that has been offered, you are also talking about spending reductions that are going to be offered at the same time.

I would like to suggest also that perhaps you share the philosophy of the chief financial adviser to the President, Laura Tyson, when she said that there is no relationship between the level of taxation and economic activity, and herein is the problem that we are having in communicating within this body and with the administration.

You are talking about the tax cuts during the eighties, during the Reagan years and the Bush years, keeping in mind just a few of those years did we have even control of one of the Houses, so it took both Houses to do it.

In 1980, the total revenues—

Mr. BYRD. We did not have control of the White House.

Mr. INHOFE. If the Senator will read the Constitution which he has in his pocket there and very available to him—

Mr. BYRD. Yes.

Mr. INHOFE. I am sure that he will see that it is the constitutional responsibility of Congress to develop the budget, to pass the budget on to the President.

In 1980, the total revenues that were derived from the income taxes amounted to \$244 billion. In 1990, 10 years later, the total revenues that were derived were \$466 billion. In that interim pe-

riod, in the 1980's came the largest marginal tax reductions, as the Senator has already mentioned, that we probably have had in any 10-year period in this Nation's history.

The maximum rate then went down from 70 percent to 28 percent. We had some help as far as capital gains taxes are concerned. And yet during that time we actually increased the revenue from those sources.

The fact is that for each 1-percent increase in economic activity we increase revenues by \$24 billion. And if we can increase economic activity, we can increase revenues. What has been suggested by many of the conservative think tanks using the CBO's projections is that we can balance the budget without cutting any programs. We can balance the budget without reducing any programs. The 2-percent-growth concept which we have already talked about, the Senator and I have, on the floor of this body, is one that would actually bring the budget into balance in approximately 8 years and not reduce one Government program; without a tax increase.

Mr. BYRD. I say to the Senator, the Congress has cut the Presidents' deficits. Since 1945, over that period of 50 years, Congress has appropriated something like \$200 billion less than the accumulated budgets that have been requested by the various Presidents who have occupied the White House during those years. Congress has a good record.

Mr. INHOFE. I will grant the Senator that on occasion Presidents have left their philosophy feeling they could not get a budget passed and have gone to Congress such as was the case with President Bush at the famous meeting out at Andrews Air Force Base where he decided to go ahead and agree to a tax increase.

I think now in retrospect, and I think he believes the same thing, that was a mistake.

Before I catch a plane, I have one other area the Senator mentioned I feel compelled to address which is the issue of grandchildren.

The Senator might remember here a few weeks ago—it seems as if we have been addressing this subject now for quite a few weeks—I had occasion to give a talk over here for about an hour and 10 minutes with the picture of two beautiful children behind me, and those two children were my grandchildren.

If we are to look at this in a compassionate way, I think that should be the driving force for our actions today because virtually everyone who has made any kind of a prediction, CBO included, has said that if we do not change from the way we have been doing business for the last 10 years and the last 40 years, if you project that forward, someone who is born today such as my two grandchildren, who are less than 2 years old, will have to pay 82 percent of their lifetime income in taxes.

Now, the distinguished Senator advocates increases in taxes. I believe, and I believe the people who voted in the election on November 8 believe, that we can do it without increasing taxes but cutting the size of Government.

I used two charts here in the Chamber to show that those individuals who were opposing the balanced budget amendment were also the same ones who historically on the record are the biggest taxers and spenders in Congress, in both Houses. And also I showed on a chart that those individuals who lost the election, the 66 House Members that are not here after the November 8 election, and the eight Senators who either retired or are not here for one reason or another, all of them had a National Taxpayers Union rating of D or F. That is the universally accepted rating for those people who tax and spend. And all of them had voted for the 1993 stimulus bill, which was the largest spending increase, and the 1993 tax increase, which was the largest tax increase.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I saw those lovely pictures of the Senator's grandchildren, and we all love our grandchildren. I have been loving my grandchildren for almost 30 years now. But if we really want to do something for those grandchildren, those two lovely grandchildren whose pictures the Senator so proudly and prominently displayed on the floor, let us get on with the business of reducing the deficits now. We do not have to have any constitutional amendment to balance the budget. We have the tools in our own hands now. If we really want to help those grandchildren, let us get on with balancing the budget. Let us speak out against tax cuts for the middle class, whether they are being advocated by Mr. Clinton or by the so-called Contract With America.

Now is not the time for a tax cut. And let us not remove possible tax increases from the table when it comes to consideration. There must be some heads in this Chamber who have the expertise, who serve on the tax writing committees, who could devise a tax increase that would be calculated to reduce the deficit, which could be directed solely to the reduction of the deficit.

I know it is not easy to vote for a tax increase. I have been in political bodies—I am in my 49th year of serving in various and sundry legislative bodies. It is not easy to vote for tax increases. It is always easy to vote for tax cuts. But I think we have to forget the easy road now and at least consider increasing some taxes. We do have to continue to cut spending. I carry no brief for protecting all spending. There is some spending we have to do as a Government of a great people. We have to invest in our people's future.

Mr. INHOFE. One last comment before I leave.

Mr. BYRD. Not yet. I will yield to the Senator. I am conscious of the fact that he needs to catch a plane. But let me finish what I was about to say.

There is not only a Federal fiscal deficit but there is also an investment deficit. I was at the 1990 summit with Mr. Bush and with the Republican leadership and with the Democratic leadership in both ends of the Capitol. I said at the summit, we have an investment deficit. We need to build up our infrastructure, both human and physical. Any business or company that does not improve its plant and equipment and keep its employees trained to the new mode of manufacturing or production of things is going to go under. Business has to invest. Our country needs to invest. And spending moneys for infrastructure is wise. We just cannot cut everything.

During the Reagan years, and up to now, we have continued to cut domestic discretionary spending. It has been cut to the bone. I say to the Senator, we will have cut over the next 5 years—in the 1993 deficit reduction package, we cut Government spending. We cut domestic discretionary spending. And we put the level of spending on a 5-year downward glide. We froze it, meaning that we would not take into account inflation from year to year.

Not only that, but the amendment that was offered in the Finance Committee by Mr. EXON and Mr. GRASSLEY further cut \$26 billion below a freeze. That \$26 billion was reduced to a \$13 billion cut in conference with the other body. So we are operating below a freeze in discretionary spending.

That is not to say we cannot cut more. But we cannot take defense off the table and say we will not touch it and still balance the budget and have a tax cut. All of these goodies—if you have a tax cut at the same time—we cannot do it.

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. INHOFE. One more comment. It was not my intention to use so much of the Senator's time.

I can only say, I am going to catch a plane. I am going back to Oklahoma where real people are, where the people spoke loudly and clearly in the November 8 election when they said: We want to downsize the scope of Government; we do not want to have Government involved in our lives to the degree that Government now is involved.

You and I probably will disagree philosophically with the role of Government. But the bottom line is, and I say it one last time, we have demonstrated we cannot do it, that either we cannot or will not do it.

I have not given up. I would like to serve notice to everyone in this Chamber, I believe we will get that one additional vote because the people are now

identifying what is going on in this country and they are going to be heard.

I have the utmost respect for the Senator from West Virginia, but I suggest if you take a trip back to West Virginia, you will hear the same thing there.

Thank you.

Mr. BYRD. Mr. President, on that point, may I say to my friend, he does not need to instruct me about going to West Virginia. When he says he is going to Oklahoma where "real people are," he does not have to travel that far. West Virginia is within an hour and a half's drive. West Virginians are "real people." The people of Oklahoma are real people. The people of West Virginia are real people.

May I say to the Senator, I came here when I was a little wet behind the ears, too. For me to say to another Senator that he ought to go back to his own State and see what the people say—that is a little bit—that is stretching one's credibility a little bit.

Mr. INHOFE. I would say I appreciate the compliment, to the Senator from West Virginia, because this is the first time since I have reached the age of 60 I have been called wet behind the ears.

Mr. BYRD. Of course, a person who is 77, who has been in this body 37 years, can remember when he, this Senator from West Virginia, came here when he, too, was wet behind the ears. But I have never said to a Senator: You ought to go back to your own State and see what the people think. Leave me and my fellow West Virginians to ourselves.

Does anybody else want me to yield? I yield to the—I will either yield the floor or yield to the lady.

Mrs. HUTCHISON. Mr. President, I was just going to ask the Senator from West Virginia—I would like to make a statement totally off this subject in morning business talk. But I certainly do not want to interrupt the Senator if he is in the middle of continuing his speech on the amendment. I was really asking for a clarification of his ability to yield me some time, but I do not want to interrupt.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia yields the floor.

Mrs. HUTCHISON. Mr. President, I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Texas.

A STRAITJACKET FOR LILLIE RUBIN

Mrs. HUTCHISON. Mr. President, our regulatory reform debate has ranged from the sublime to the ridiculous and back. Today I would like to weigh in briefly on the side of the ridiculous.

The dressing room of a fine women's clothing store may seem like an odd

place for the EEOC to intrude in a way that perfectly illustrates regulatory excess, but that is exactly where we find ourselves today. The firm in question, Lillie Rubin, is a successful 49-year-old business with 60 affiliates, specializing in clothes for women. But the EEOC is measuring Lillie Rubin for a new outfit, and I think it seems like more of a straitjacket than a woman's dress.

In opposition to its own regulations and its own previous decisions, the EEOC has ruled that a Lillie Rubin store in Phoenix must employ male salespeople, and it is demanding that they be allowed to work in the store's fitting rooms where female customers try on clothes. I know this does not sound like an EEOC case so much as an "I Love Lucy" rerun, but it is true.

However much our society has changed, I still believe that certain standards prevail, and I believe this dress store's customers should not be guinea pigs in a new Government experiment. I am astounded that an agency of the Government would seek to strong-arm a private business into violating basic standards in such an outrageous way. It is beyond my understanding why the EEOC would try to force a business such as Lillie Rubin to sacrifice the privacy of its customers in order to avoid Government censure.

But customer privacy is not all that Lillie Rubin would be sacrificing if it is forced to comply with this EEOC ruling. What the EEOC has concocted is a remedy that could well drive away Lillie Rubin's customers and hurt its business.

This is more than regulatory intrusion. The EEOC decision, if not reversed, will leave the company in an exposed financial position.

As a final blow, EEOC is insisting that Lillie Rubin pay for newspaper advertisements to publicize that it may be vulnerable to EEOC claims by men who have applied in the past or might in the future.

The EEOC's approach to Lillie Rubin has been highhanded and arbitrary in the extreme, and bizarre, I think, as well. According to the company, one EEOC investigator told a company representative that "Some women like it" when there are males in the dressing room when they disrobe.

Mr. President, I ask you, is that what the taxpayers of America want their hard-earned dollars to pay for from our Government employees? Is that what this Congress wants the people to whom we are delegating our authority to implement regulations to do? Of course not. I am sure President Clinton would not want an agency of his executive branch to be putting forward a policy that forces men into women's dressing rooms. Surely he realizes by now that it is impossible for one individual, regardless of how powerful, to even think that this would happen and

to come to grips with the regulatory gridlock that has been created here.

I think this argues even more for a regulatory moratorium. If these kinds of things are out there happening in the real world, and if regulators are going to this extreme, I think it is time to have a moratorium that says: Hold it. Time out. Let us bring common sense into this process and let us find out how big the problem is.

I think this Lillie Rubin example is one more in a multitude of examples that we have heard talked about on the House floor in the last few weeks, and on this floor, talking about trying to put parameters and common sense into our regulatory framework. The EEOC's treatment of Lillie Rubin is tailor made—if I could use a pun—to show how bureaucratic intrusiveness is sapping the productivity of American business and how it is costing Americans billions of dollars every year.

I hope we can put common sense into the system. I hope this just illustrates how much we need to put common sense into the system. And I hope the EEOC will hear this put in context and retreat from such a ridiculous requirement of a women's dress store to hire male salespeople and allow them into the dressing rooms.

This is something we must stop. I hope the regulatory moratorium bill will be the first step to allow us to say: Enough is enough. This is not the way our American taxpayers expect their taxpayer dollars to be used.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS- SIONS ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 331

Mr. FAIRCLOTH. Mr. President, I rise in support of the Kassebaum striker replacement amendment. I strongly support the amendment offered by the distinguished Senator from Kansas. The Executive order is one more example of the President's bypassing the legislative process to accomplish his own agenda just as he did with the Mexican bailout which has been the subject of a Banking Committee hearing this morning and it is proving to be a monetary Vietnam.

More importantly, this amendment is essential to overturn an Executive order which would unilaterally resurrect archaic labor policies that undermine our national effort to move our economy successfully into the competitive international markets of the 21st century.

The President's action places at risk the integrity of our entire system of collective bargaining which is based on

a delicate balance of the rights of employees to withhold their labor and the right of management to continue business operations during a strike. The President suggests that the ban on permanent replacement workers by businesses engaged in Federal contracts will lead to the more efficient performance of such contracts. This is ridiculous and is totally wrong. I am convinced that by upsetting the balance between labor and management, the entire system of collective bargaining will break down resulting in more strikes, business bankruptcies, and fewer jobs.

While this Executive order is limited to Federal contracts, the intent of the President and the opponents of this amendment is clear. They seek to return this country to labor policies which history has rejected as proven failures over and over. This Executive order embodies a labor policy completely at odds with current realities in the international marketplace.

It is contrary to the interests of working Americans striving for success in a global economy where free trade is the order of the day. It panders to special union interests who seek to protect their own privileged position at the expense of other working people. And it is a cynical attempt to delay congressional consideration of the priorities which voters last November clearly indicated they were most interested in.

The Congress has on many occasions debated the merits of banning permanent replacement workers. The most recent occasion was during the last Congress when the administration's proposal to overturn a 60-year interpretation of the National Labor Relations Act was defeated by a Congress controlled by the President's own party.

Last week, the President actively fought against the balanced budget amendment. This week he issues an Executive order on striker replacement knowing that it will be used by supporters to halt congressional consideration of legislation which the administration opposes.

In November the voters spoke unmistakably about their expectations for the 104th Congress. In my opinion during the first 100 days of this Congress the electorate does not expect us to devote our time and energies to long-settled issues which were recently revisited and reaffirmed.

My colleague from Kansas has offered a reasonable proposal limited to this fiscal year. I believe that at some point during this Congress we should consider legislation which would permanently nullify the President's Executive order. At a later date I will welcome a full debate on striker replacement with those who support the President's action, but not at this time.

I encourage opponents of this amendment to allow the Senate to continue

with our consideration of the defense supplemental appropriations and then proceed with other important issues such as the line-item veto, welfare reform, product liability reform, tort reform, and a regulatory moratorium.

These are the issues that last November voters expected us to consider at this time, I think, and it is time we get on with considering them at a rapid rate.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity this afternoon to address some of the issues in question that have been raised by the Kassebaum amendment and hopefully resolve the questions that have been raised so that we will be able to move beyond the Kassebaum amendment to address the underlying issue which is the appropriations which are necessary for our national defense and national security.

This particular proposal is not really appropriate on this particular measure. But it has been the desire of a number of our Members to continue the debate and discussion on the measure rather than consider the urgency of the underlying proposal.

So I welcome the chance to respond to a number of the questions that have been raised including the questions that have been raised by my friend from North Carolina in his own comments.

The argument we hear over and over is the President is changing the law, that Congress gave employers the rights to use permanent replacements and the President is taking away that right. Let us look a little closer at this argument.

In the first place, Congress never gave employers the right to use permanent replacements. The National Labor Relations Act never uses the term and it was not in the act of 1935, and it is not there today. What Congress did say was very different. Section 13 states very plainly:

Nothing in this act, except as specifically provided herein, shall be construed so as to either interfere with, or impede, or in any way diminish the right to strike, or to affect the limitations or qualifications on that right.

But nevertheless it is true that employers can use permanent replacements. If they did not get that right from Congress, where did it come from? The answer, of course, is the Supreme Court's decision in the 1938 case of *Mackay Radio* where the Court interpreted the act to allow the use of permanent replacements despite the statute's proscription against diminishing the right to strike. But even *Mackay* did not give employers the right to use permanent replacements. It merely said the National Labor Relations Act does not prohibit their use.

The Court said that the powers of the National Labor Relations Board and the act's legal machinery could not be used to stop employers from using permanent replacements. Has President Clinton changed that law or attempted to change it? No, he has not. Any Senator who will take the time to read the Executive order will see that he has not. It is still legal under the National Labor Relations Act to use permanent replacements.

There is no back pay remedy in the Executive order for workers whose jobs are taken from them. There is no power granted to the National Labor Relations Board to go to the court and get an order blocking the employer's use of permanent replacements. Those are the powers and remedies the Congress debated in the last Congress when we considered S. 55, not the President's power to administer Federal contracts. President Clinton has not given the National Labor Relations Board any of the powers that Congress debated in S. 55 nor has he given the Board any new powers at all.

So to say the Executive order is an end run around the Congress is untrue. The Congress never debated whether the President should exercise his procurement powers to prevent the kind of lengthy and bitter strikes that occur when Federal contractors use permanent replacements. We have never debated whether it makes sense, as I believe it does, for the President to prevent situations from occurring where unusually lengthy strikes led us to long periods where critical products such as fighter jet engines or missile guidance systems are produced entirely by any untrained workers brought in as permanent replacements for 20- or 30-year skilled veterans. I believe it does not make sense for the President to do that. It does make sense for the President to do what he can to protect the Government's procurement process from that sort of situation.

But no one should doubt that he has the power to do so. This power may be inherent in the Executive. But in any case, Congress has given the President this authority through the Federal Property and Administrative Services Act.

(Mr. SMITH assumed the chair.)

Mr. KENNEDY. Now, Senator KASSEBAUM might want to take that power away, but there is no end run here. Congress gave the power, gave the President the authority to oversee contracting by the Federal agencies and Executive Order 12954, is an exercise of that authority.

I hope, Mr. President, that over the period of the weekend our Members will have a chance to review the Department of Justice's legal memoranda supporting that authority.

I ask unanimous consent that that memorandum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC, March 9, 1995.

Memorandum for Janet Reno, Attorney General.

From: Walter Dellinger, Assistant Attorney General.

Re: Executive Order No. 12954, entitled "Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts".

On March 6, 1995, we issued a memorandum approving as to form and legality a proposed executive order entitled, "Ensuring the Economical and Efficient Administration of Federal Government Contracts." On March 8, 1995 the President signed the proposed directive, making it Executive Order No. 12954. This memorandum records the basis for our prior conclusion that the Federal Property and Administrative Services Act vests the President with authority to issue Executive Order No. 12954 in light of his finding that it will promote economy and efficiency in government procurement.

I

Executive Order No. 12954 establishes a mechanism designed to ensure economy and efficiency in government procurement involving contractors that permanently replace lawfully striking workers. After a preamble that makes and discusses various findings and ultimately concludes that Executive Order No. 12954 will promote economy and efficiency in government procurement, the order declares that "[i]t is the policy of the Executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies shall not contract with employers that permanently replace lawfully striking employees." Exec. Order No. 12954, §1. The order makes the Secretary of Labor ("Secretary") responsible for its enforcement. *Id.* §6. Specifically, the Secretary is authorized to investigate and hold hearings to determine whether "an organizational unit of a federal contractor" has permanently replaced lawfully striking employees either on the Secretary's own initiative or upon receiving "complaints by employees" that allege such permanent replacement. *Id.* §2.

If the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary is directed to exercise either or both of two options. First, the Secretary may make a finding that all contracts between the government and that contractor should be terminated for convenience. *Id.* §3. The Secretary's decision whether to issue such a finding is to be exercised to advance the government's economy and efficiency interests as set forth in section 1. *Id.* §1 ("All discretion under this Executive order shall be exercised consistent with this policy.") The Secretary is then to transmit the finding to the heads of all departments and agencies that have contracts with the contractor.¹ Each such agency head is to terminate any contracts that the Secretary has designated for termination, unless the agency head formally and in writing objects to the Secretary's finding. *Id.* §3. An agency head's discretion to object is also limited to promoting the purpose of economy and efficiency as set forth in the policy articulated in section 1.

The Secretary's second option is debarment. If the Secretary determines that a

¹ Footnotes at end of article.

contractor has permanently replaced lawfully striking employees, the Secretary is to place the contractor on the debarment list until the labor dispute has been resolved, unless the Secretary determines that debarment would impede economy and efficiency in procurement. The effect of this action is that no agency head may enter into a contract with a contractor on the debarment list unless the agency head finds compelling reasons for doing so. *Id.* §4.

Executive Order No. 12954, taken as a whole, sets forth a mechanism that closely ties its operative procedures—termination and debarment—to the pursuit of economy and efficiency. The President has made a finding that, as a general matter, economy and efficiency in procurement are advanced by contracting with employers that do not permanently replace lawfully striking employees. Additionally, the President has provided for a case-by-case determination that his finding is justified on the peculiar facts and circumstances of each specific case before any action to effectuate the President's finding is undertaken.

II

The Supreme Court has instructed that "[t]he President's power, if any, to issue [an] order must stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). The President's authority to issue Executive Order No. 12954 is statutory; specifically, the Federal Property and Administrative Services Act of 1949 ("FPASA"). That statute was enacted "to provide for the Government an economical and efficient system for . . . procurement and supply." 40 U.S.C. §471. The FPASA expressly grants the President authority to effectuate this purpose. "The President may prescribe such policies and directives, not inconsistent with the provisions of this Act, as he shall deem necessary to effectuate the provisions of said Act, which policies and directives shall govern the Administrator [of General Services] and executive agencies in carrying out their respective functions hereunder." *Id.* §486(a). An executive order issued pursuant to this authorization is valid if (a) "the President acted 'to effectuate the provisions' of the FPASA," and (b) the President's "action was 'not inconsistent with' any specific provision of the Act." *American Fed'n of Gov't Employees v. Carmen*, 669 F.2d 815, 820 (D.C. Cir. 1981) (quoting 40 U.S.C. §486(a)). We are not aware of any specific provision of the FPASA that is inconsistent with Executive Order No. 12954. Therefore, we turn to the question whether the President acted to effectuate the purposes of the FPASA.

Every court to consider the question has concluded that §486(a) grants the President a broad scope of authority. In the leading case on the subject, the United States Court of Appeals for the District of Columbia Circuit, sitting en banc, addressed the question of the scope of the President's authority under the FPASA, and §486(a) in particular. See *AFL-CIO v. Kahn*, 618 F.2d 784 (D.C. Cir.) (en banc), cert. denied, 443 U.S. 915 (1979). A plausible argument that the FPASA granted the President only narrowly limited authority was advanced and rejected. See *id.* at 799-800 (MacKinnon, J., dissenting). After an extensive review of the legislative history of that provision, the court held that the FPASA, through §486(a), was intended to give the President "broad-ranging authority" to issue orders designed to promote "economy" and "efficiency" in government procurement. *Id.* at 787-89. The court emphasized that "[e]conomy" and "efficiency" are not

narrow terms; they encompass those factors like price, quality, suitability, and availability of goods or services that are involved in all acquisition decisions." *Id.* at 789; see also Peter E. Quint, *The Separation of Powers under Carter*, 62 Tex. L. Rev. 786, 792-93 (1984) (although §486(a) "easily could be read as authorizing the President to do little more than issue relatively modest housekeeping regulations relating to procurement practice * * *"). The Kahn court found congressional authorization of sweeping presidential power * * *; Peter Raven-Hansen, *Making Agencies Follow Orders: Judicial Review of Agency Violations of Executive Order 12,291*, 1983 Duke L.J. 285, 333, n.266; Jody S. Fink, *Notes on Presidential Foreign Policy Powers (Part II)*, 11 Hofstra L. Rev. 773, 790-91 n.132 (1983) (characterizing Kahn as reading §486(a) to grant President "virtually unlimited" authority).

The court then concluded that a presidential directive issued pursuant to §486(a) is authorized as long as there is a "sufficiently close nexus" between the order and the criteria of economy and efficiency. *Kahn*, 618 F.2d at 792. Although the opinion does not include a definitive statement of what constitutes such a nexus, the best reading is that a sufficiently close nexus exists when the President's order is "reasonably related" to the ends of economy and efficiency. See *id.* at 793, n.49; Harold H. Bruff, *Judicial Review and the President's Statutory Powers*, 68 Va. L. Rev. 1, 51 (1982) ("In *AFL-CIO v. Kahn*, the court stated an appropriate standard for reviewing the basis of a presidential action—that it be 'reasonably related' to statutory policies") (footnote omitted).

As one commentator has asserted, under *Kahn*, the President need not demonstrate that an order "would infallibly promote efficiency, merely that it [is] plausible to suppose this." Alan Hyde, *Beyond Collective Bargaining: The Politicization of Labor Relations under Government Contract*, 1982 Wis. L. Rev. 1, 26. In our view a more exacting standard would invade the "broad-ranging" authority that the court held the statute was intended to confer upon the President. See *Kahn*, 618 F.2d at 787-89. In addition, a stricter standard would undermine the great deference that is due presidential factual and policy determinations that Congress has vested in the President. See, e.g., Henry P. Monaghan, *Stare Decisis and Constitutional Adjudication*, 88 Colum. L. Rev. 723, 738 (1988).²

We have no doubt, for example, that §486(a) grants the President authority to issue a directive that prohibits executive agencies from entering into contracts with contractors who use a particular machine that the President has deemed less reliable than others that are available. Contractors that use the less reliable machines are less likely to deliver quality goods or to produce their goods in a timely manner. We see no distinction between this hypothetical order in which the President prohibits procurement from contractors that use machines that he deems unreliable and the one the President has actually issued, which would bar procurement with contractors that use labor relations techniques that the President deems to be generally unreliable, especially when the Secretary of Labor and the contracting agency head each confirm the validity of that generalization in each specific case.

The preamble of Executive Order No. 12954 sets forth the President's findings that the state of labor-management relations affects the cost, quality, and timely availability of goods and services. The order also announces his finding that the government's procurement interests in cost, quality, and timely

availability are best secured by contracting with those entities that have "stable relationships with their employees" and that "[a]n important aspect of a stable collective bargaining relationship is the balance between allowing businesses to operate during a strike and preserving worker rights." The President has concluded that "[t]his balance is disrupted when permanent replacement employees are hired." In establishing the policy ordinarily³ to contract with contractors that do not hire permanent replacement workers, the President has found that he will advance the government's procurement interests in cost, quality, and timely availability of goods and services by contracting with those contractors that satisfy what he has found to be an important condition for stable labor-management relations.

The order's preamble then proceeds to set forth reasonable relation between the government's procurement interests in economy and efficiency and the order itself. Specifically, the order asserts the President's finding that "strikes involving permanent replacement workers are longer in duration than other strikes. In addition, the use of permanent replacements can change a limited dispute into a broader, more contentious struggle, thereby exacerbating the problems that initially led to the strike. By permanently replacing its workers, an employer loses the accumulated knowledge, experience, skill, and expertise of its incumbent employees. These circumstances then adversely affect the businesses and entities, such as the Federal Government, which rely on that employer to provide high quality and reliable goods or services." We believe that these findings state the necessary reasonable relation between the procedures instituted by the order and achievement of the goal of economy and efficiency.

It may well be that the order will advance other permissible goals in addition to economy and efficiency. Even if the order were intended to achieve goals other than economy and efficiency, however, the order would still be authorized under the FPASA as long as one of the President's goals is the promotion of economy and efficiency in government procurement. "We cannot agree that an exercise of section 486(a) authority becomes illegitimate if, in design and operation, the President's prescription, in addition to promoting economy and efficiency, serves other, not impermissible, ends as well." *Carmen*, 669 F.2d at 821; see *Rainbow Nav. Inc. v. Dep't of the Navy*, 783 F.2d 1072 (D.C. Cir. 1986); Kimberly A. Egerton, Note, *Presidential Power over Federal Contracts under the Federal Property and Administrative Services Act: The Close Nexus Test of AFL-CIO v. Kahn*, 1980 Duke L.J. 205, 218-20.

Since the adoption of the FPASA, Presidents have consistently regarded orders such as the one currently under review as being within their authority under that Act. As the court explained in *Kahn*, Presidents have relied on the FPASA as authority to issue a wide range of orders. 618 F.2d at 789-92 (noting the history of such orders since 1941, especially to institute "buy American" requirements and to prohibit discrimination in employment by government contractors). Not surprisingly this executive practice has continued since *Kahn*. For instance, President Bush issued Executive Order No. 12800, which required all government contractors to post notices declaring that their employees could not "be required to join a union or maintain membership in a union in order to regain their jobs." 57 Fed. Reg. 12985 (April 13, 1992). The order was supported solely by

the statement that it was issued "in order to * * * promote harmonious relations in the workplace for purposes of ensuring the economic and efficient administration and completion of Government contracts." *Id.*⁴ This long history of executive practice provides additional support for the President's exercise of authority in this case. See *Kahn*, 618 F.2d at 790.⁵ This is especially so where, as here, the President sets forth the close nexus between the order and the statutory goals of economy and efficiency.

It may be that in individual cases, a contractor that maintains a policy of refusing to permanently replace lawfully striking workers may nevertheless have an unstable labor-management relationship while a particular contractor that has permanently replaced lawfully striking workers may have a more stable relationship. As to such situations, however, the Secretary and the contracting agency heads retain the discretion to continue to procure goods and services from contractors that have permanently replaced lawfully striking workers if that procurement will advance the federal government's economy and efficiency interests as articulated in section 1 of Executive Order No. 12954.⁶ We recognize that, even with these safeguards, it could happen that a specific decision to terminate a contract for convenience or to debar a contractor pursuant to the order might not promote economy or efficiency. The courts have held that it remains well within the President's authority to determine that such occurrences are more than offset by the economy and efficiency gains associated with compliance with an order generally. See *Kahn*, 618 F.2d at 793.⁷

Similarly, it would be unavailing to contend that Executive Order No. 12954 will secure no immediate or near-term advancement of the federal government's economy and efficiency procurement interests. Section 486(a) authorizes the President to employ "a strategy of seeking the greatest advantage to the Government, both short- and long-term," and this is "entirely consistent with the congressional policies behind the FPASA." *Id.* *emphasis added*; cf. *Contractors Ass'n v. Secretary of Labor*, 442 F.2d 159, 170 (3d Cir.) (deciding on basis of president's constitutional rather than statutory authority), cert. denied, 404 U.S. 854 (1971).

The FPASA grants the President a direct and active supervisory role in the administration of that Act and endows him with broad discretion over how best "to achieve a flexible management system capable of making sophisticated judgment in pursuit of economy and efficiency." *Kahn*, 618 F.2d at 788-89. As explained above, the President has set forth a sufficiently close nexus between the program to be established by the proposed order and the goals of economy and efficiency in government procurement.⁸

Finally, we do not understand the action of Congress in relation to legislation on the subject of replacement of lawfully striking workers to bear on the President's authority to issue Executive Order No. 12954. The question is whether the FPASA authorizes the President to issue the order. As set forth above, we believe that it does. Recent Congresses have considered but failed to act on the issue of whether to adopt a national, economy-wide proscription of the practice applying to all employers under the National Labor Relations Act ("NLRA").⁹ This action may not be given the effect of amending or repealing the President's statutory authority, for the enactment of such legislation requires passage by both houses of Congress and presentment to the President. See *Metro-*

politan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252 (1991); *INS v. Chadha*, 462 U.S. 919 (1983). To contend that Congress's inaction on legislation to prohibit all employers from hiring replacement workers deprived the President of authority he had possessed is to contend for the validity of the legislative veto.

In *Youngstown Sheet & Tube*, it was considered relevant that Congress had considered and rejected granting the President the specific authority he had exercised. 343 U.S. 586. There, however, the President did not claim to be acting pursuant to any statutory power, but rather to inherent constitutional power. In such a case, the scope of the President's power depends upon congressional action in the field, including an express decision to deny the President any statutory authority. *Id.* *Youngstown Sheet & Tube* is inapposite here because the President does not rely upon inherent constitutional authority, but rather upon express statutory authority—§486(a) of the FPASA. See *Kahn*, 618 F.2d at 787 & n. 13.

Moreover, we note that Congress's action was far from a repudiation of the specific authority exercised in Executive Order No. 12954. Even if a majority of either house of Congress had voted to reject the blanket proscriptions on hiring permanent replacements for lawfully striking workers, contained in H.R. 5 and S. 55, this would denote no more than a determination that such a broad, inflexible rule applied in every labor dispute subject to the NLRA would not advance the many interests that Congress may consider when assessing legislation. The order, by contrast, does not apply across the economy, but only in the area of government procurement. Nor does the order establish an inflexible application, rather it provides the Secretary of Labor an opportunity to review each case to determine whether debarment or terminating a contract with a particular contractor will promote economy and efficiency in government procurement and further permits any contracting agency head to override a decision to debar if he or she believes there are compelling circumstances or to reject a recommendation to terminate a contract if, in his or her independent judgment, it will not promote economy and efficiency. In sum, the congressional action alluded to above simply does not implicate the narrow context of government procurement or speak to the efficacy of a flexible case-by-case regime such as the one set forth in the order.¹⁰

The *Kahn* opinion fully supports this view. There the President promulgated voluntary wage and price guidelines that were applicable to the entire economy. Contractors that failed to certify compliance with the guidelines were debarred from must government contracts. See Exec. Order No. 12092, 43 Fed. Reg. 51,375 (1978). The order was issued in 1978 against the following legislative backdrop: In 1971 Congress passed the Economic Stabilization Act, which authorized the President to enforce economy-wide wage and price controls. In 1974, a few months after the Economic Stabilization Act expired, the Council on Wage and Price Stability Act ("COWPSA") was enacted. COWPSA expressly provided that "[n]othing in this Act * * * authorizes the continuation, imposition, or reimposition of any mandatory economic controls with respect to prices rents, wages, salaries, corporate dividends, or any similar transfers." Pub. L. No. 93-387, §3(b), 88 Stat. 750 (1974).

The court concluded that "the standards in Executive Order 12092, which cover only

wages and prices, are not as extensive as the list in Section 3(b). Consequently, we do not think the procurement compliance program falls within the coverage of Section 3(b), but rather is a halfway measure outside the contemplation of Congress in that enactment." *Kahn*, 618 F.2d at 795. Similarly, Executive Order No. 12954 is a measure that operates in a manner (case-by-case determination) and a realm (government procurement exclusively) that was outside the contemplation of Congress in its consideration of a broad and inflexible prohibition on the permanent replacement of lawfully striking workers.

III

Congress, in the FPASA, established that the President is to play the role of managing and directing government procurement. Congress designed this role to include "broad-ranging authority" to issue orders intended to achieve an economical and efficient procurement system. Executive Order No. 12954, "Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts," represents a valid exercise of this authority.

FOOTNOTES

¹ We will refer to this class of officials generically as agency head(s).

² We do not mean to indicate a belief that Executive Order No. 12954 could not withstand a stricter level of scrutiny. We simply regard the employment of such a standard to be contrary to the holding of *Kahn*, as well as the view of the purposes of the FPASA and its legislative history upon which that decision expressly rests.

³ Again, the order does not categorically bar procurement from contractors that have permanently replaced lawfully striking workers. The sanctions that the order would authorize would not go into effect if either the Secretary, with respect to either the termination or the debarment option, or the contracting agency head, with respect to the termination option, finds that the option would impede economy and efficiency in procurement.

⁴ This order is also significant insofar as it demonstrates that Executive Order No. 12954 is not the first in which a president has found that more stable workplace relations promote economy and efficiency in government procurement.

⁵ Of course, the President's view of his own authority under a statute is not controlling, but when that view has been acted upon over a substantial period of time without eliciting congressional removal, it is "entitled to great respect." . . . [t]he "construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong." *Kahn*, 618 F.2d at 790 (quoting *Board of Governors of the Federal Reserve Sys. v. First Lincolnwood Corp.*, 439 U.S. 234 (1978), and *Miller v. Youakim*, 440 U.S. 125, 144 n.25 (1979)).

⁶ The authority of an agency head is diminished somewhat, though not eliminated entirely with respect to procuring from a contractor that the Secretary has debarred. An agency head may procure from a debarred contractor only for compelling reasons. See Exec. Order No. 12954, §4. Nevertheless, the Secretary has authority to refuse to place a contractor on the debarment list in the first instance if the Secretary believes that debarment would not advance economy and efficiency.

⁷ "[W]e find no basis for rejecting the President's conclusion that any higher costs incurred in those transactions will be more than offset by the advantages gained in negotiated contracts and in those cases where

the lowest bidder is in compliance with the voluntary standards and his bid is lower than it would have been in the absence of standards." *Kahn*, 618 F.2d at 793.

*Moreover, we note that under the Supreme Court's recent decision in *Dalton v. Specter*, 114 S. Ct. 1719 (1994), it is unlikely that the President's judgment may be subject to judicial review. It is clear that §486(a) gives the President the power to issue orders designed to promote economy and efficiency in Government procurement. See 40 U.S.C. §486(a); *Carmen*, 669 F.2d at 821; *Kahn*, 618 F.2d at 788-89, 792-93. The Supreme Court has recently "distinguished between claims of constitutional violations and claims that an official has acted in excess of his statutory authority." *Dalton*, 114 S. Ct. at 1726. The Court held that where a claim "concerns not a want of [presidential] power, but a mere excess or abuse of discretion in exercising a power given, it is clear that it involves considerations which are beyond the reach of judicial power. This must be since, as this court has often pointed out, the judicial may not invade the legislative or executive departments so as to correct alleged mistakes or wrongs arising from asserted abuse of discretion."

Id. at 1727 (quoting *Dakota Central Telephone Co. v. South Dakota*, ex rel, *Pevne*, 250 U.S. 163, 184 (1919)); see also *Smith v. Reagan*, 844 F.2d 195, 198 (4th Cir.), cert. denied, 488 U.S. 954 (1988); *Colon v. Carter*, 633 F.2d 964, 966 (1st Cir. 1980); cf. *Heckler v. Chaney*, 470 U.S. 821 (1985); *Chicago Southern Air Lines Inc. v. Waterman S.S. Corp.*, 333 U.S. 103 (1948).

Judicial review is unavailable for claims that the President had erred in his judgment that the program established in the order is unlikely to promote economy and efficiency. The FPASA entrusts this determination to the President's discretion and, under *Dalton*, courts may not second-guess his conclusion. The Court made it clear that the President does not violate the Constitution simply by acting ultra vires. See *Dalton*, 114 S. Ct. at 1726-27. Judicial review is available only for contentions that the President's decision not only is outside the scope of the discretion Congress granted the President, but also that the President's action violates some free-standing provision of the Constitution.

*In the 102d Congress, The House of Representatives passed a bill to amend the National Labor Relations Act to make it an unfair labor practice for an employer to hire a permanent replacement for a lawfully striking employee. See H.R. 5, 102d Cong., 1st Sess. (1991). The House passed this legislation on a vote of 247-182. See Cong. Rec. H5589 (daily ed. July 17, 1991). The Senate considered legislation to the same effect. See S. 55, 102d Cong., 2d Sess. (1992). The legislation was not brought to the floor for a vote because supporters of the measure were only able to muster 57 votes to invoke cloture. See Cong. Rec. S8237-38 (daily ed. June 16, 1992).

Likewise, legislation to categorize the hiring of permanent replacement workers as an unfair labor practice was considered in the 103d Congress. The House of Representatives approved the legislation on a vote of 239-190. See Cong. Rec. H3568 (daily ed. June 15, 1993). Again, the Senate did not bring the bill to a vote, because its supporters were unable to attract the supermajority required to invoke cloture. See Cong. Rec. S8524 (daily ed. July 12, 1994) (fifty-three senators voting to invoke cloture).

¹⁰We have found no indication in the legislative history that those opposing the proposed amendments to the NLRA even considered the specialized context of government

procurement. See, e.g., S. Rep. No. 110, 103d Cong., 1st Sess. at 33-49 (1993) (stating minority views); H.R. Rep. No. 116, 103d Cong. 2d Sess., pt. 1, at 42-62 (1993) (minority views); H.R. Rep. No. 116, 103d Cong., 2d Sess., pt. 2, at 16-17 (1993) (minority views); H.R. Rep. No. 116, 103d Cong., 2d Sess., pt. 3, at 11-15 (1993) (minority views). Moreover, we note that at least some of the opposition to the legislation was based in part on concerns regarding the breadth of the legislation, see H.R. Rep. No. 116, pt. 1, at 45 (minority views) (emphasizing absence of "a truly pressing societal need" (emphasis added)), as well as its inflexibility, see *id.* at 62 (views of Rep. Roukema).

Mr. KENNEDY. I will highlight a couple of essential parts of the memorandum.

On March 6, 1995, we issued a memorandum approving as to form and legality a proposed executive order entitled, "Ensuring the Economical and Efficient Administration of Federal Government Contracts." On March 8, 1995 the President signed the proposed directive, making it Executive Order No. 12954. This memorandum records the basis for our prior conclusion that the Federal Property and Administrative Services Act vests the President with authority to issue Executive Order No. 12954 in light of his finding that it will promote economy and efficiency in Government procurement.

I will come back to that issue because I think it is basic to both the rationale for the Executive order and reaches the heart of the whole debate on this issue.

Executive Order No. 12954 establishes a mechanism designed to ensure economy and efficiency in Government procurement involving contractors that permanently replace lawful striking workers.

Executive Order No. 12954, taken as a whole, sets forth a mechanism that closely ties its operative procedures—termination and debarment—to the pursuit of economy and efficiency. The President has made a finding that, as a general matter, economy and efficiency in procurement are advanced by contracting with employers that do not permanently replace lawfully striking employees. Additionally, the President has provided for a case-by-case determination that his finding is justified on the peculiar facts and circumstances of each specific case before any action to effectuate the President's finding is undertaken.

The rest of the memorandum goes on with citations in support for this President's authority in a very, I find, persuasive and convincing way.

What did the President base his Executive order on? He based it, effectively, on the pursuit of economy and efficiency. Procurements are advanced by contracting with employers that do not permanently replace lawfully striking employees.

So it seems to be appropriate that we give some consideration to what has been happening over the period of recent years with regard to various disputes involving the permanent replacement of striking workers per year.

This chart shows some, I think, very powerful and persuasive evidence justifying the Executive order. What we see in this chart is the rather dramatic increase in the numbers of strikes in

which permanent replacements have been used over the period from 1935 all the way to 1991. What you do see, particularly, is that in the last 2 or 3 years the numbers have been going up dramatically.

Since we find out that they have been going up dramatically, we can ask ourselves, what has been the result? This chart reflects the average number of strikes involving permanent replacements per year by decade. So it is the concern of the President in connection with Government purchasing to take notice of the number of strikes that have been taking place in which permanent replacement strikers have been used. This is interesting in reflecting the increased numbers of replacement workers.

We have to ask ourselves, why is that important? Why should we take notice of this dramatic increase in permanent replacement strikes? Well, it is interesting for this reason, Mr. President. With the dramatic increase, we take note that strikes involving permanent replacement workers are substantially longer in duration than other strikes. One study done at the University of Notre Dame indicates that strikes involving permanent replacements last seven times longer than strikes that do not involve permanent replacements.

Other evidence suggests that the mere threat to use permanent replacement workers is associated with the longer strikes. So we have this phenomenon, increasing numbers of strikes, which are utilizing the permanent replacements, increasing powerful evidence that the strikes themselves last dramatically longer than other labor disputes.

Clearly, the President has an important responsibility, primarily in the area of our national defense, to make sure that we are going to be able to have our weapons systems and procurement be done in a way that is going to meet his responsibilities, to make sure that we are going to get good product, good quality, good performance, top-skilled people that are going to be working on the various systems which are so important to our fighting men.

Well, not only are the strikes longer involving permanent strikes, but there is another phenomenon, and that is what has happened to productivity in the areas of where the permanent replacements have taken place. We now know that the number of strikes in which permanent strikers are used has been increasing dramatically, and the strikes themselves last longer. But we can also ask ourselves what has been happening in terms of the productivity in those companies, where they have made the judgment to select permanent replacements.

Mr. President, I will just quote part of the findings from research by Prof. Julius Getman, professor of law at the University of Texas Law School to be included in a forthcoming book,

The data that I have collected in my study of the Paper Workers strike in Jay, Maine from 1987 to 1988 is strongly supportive of the conclusion that hiring permanent replacement workers is harmful to productivity. This is true not only because the replacement workers are almost certain to lack the experience and know-how of the workers they replace, but because permanent replacement is totally inconsistent with the goal of the labor-management cooperation necessary for improving quality and productivity.

*** In any large enterprise, because of the Laidlaw doctrine, in the period after the strike terminates, significant numbers of former strikers will return.

*** The anger among the groups will inevitably effect productivity. It will make employees suspicious of cooperation and unwilling to take part in new approaches to productivity.

*** Managers, who are aware they will be required to rehire a former striker whenever a replacement worker either quits or is fired, will be loath to impose discipline on the replacement workers or crossovers. If they treat the strikers differently, they commit an unfair labor practice. At the Androscoggin mill all sides agree that the lack of discipline was harmful to productivity.

Then it continues in the study of the Androscoggin mill, pointing out the difference in atmosphere, the difference in productivity that existed prior to the time of the striker replacements. And drawing the conclusion that, on the issue of productivity, there had been a very significant diminution in the productivity of those companies that use the striker replacements.

So, Mr. President, I make the point which is the obvious one that the President has noted, that there are an increasing number of strikes, increasing number of permanent replacement workers, that productivity in those areas deteriorates. And, obviously, the President does have the authority and the power to issue such an Executive order as has been summarized in the Attorney General's memorandum.

Mr. President, we have been asked earlier about the precedents. Is this Executive order unprecedented? I have an interesting memorandum here, Mr. President, that I have developed that reviews the recent Executive orders that have been done under the Republican Presidents and also this one to put it in some proportion. I think in any fair evaluation you would find that there is far more excessive use of executive authority, particularly by President Bush in his Executive order basically on the prehire issue, which is basically in conflict with the law itself prohibiting the prehire agreements, even though the National Labor Relations Act itself specifically permits the prehire agreements.

Several Senators from the other side of the aisle took to the Senate floor yesterday to suggest that President Clinton's Executive order prohibiting Federal contractors from permanently

replacing lawfully striking workers is completely unprecedented. They stated on this floor, as though it were an undeniable fact, that there has never before been an Executive order that has prohibited Federal contractors from undertaking an otherwise legal act.

Mr. President, these Senators are simply and plainly wrong. And Mr. President, we do not have to go back very far in our history to prove that they are wrong.

In late October 1992 President Bush issued Executive Order No. 12818 prohibiting Federal contractors from entering into pre-hire agreements. The agreements are also sometimes called project agreements. Project agreements are collective-bargaining agreements commonly used in the construction industry. They establish labor standards, the terms and conditions of employment for workers on construction sites before any of the workers are hired. President Bush's Executive order prohibited any Federal contractor working on a construction project from entering into a project agreement with a union.

President Bush justified this Executive order in many ways. He argued that he wanted to open up the bidding process. He wanted to reduce costs. Some of us took note that he made his announcement just a few days before the Presidential election in 1992 and the fact that immediately after he issued the Executive order he was endorsed by the Associated Builders & Contractors, a well-known lobbying group for nonunion and antiunion construction contractors.

Regardless of his reasons, President Bush and his allies in this body never tried to suggest that it was unlawful for construction employers and unions to enter into project agreements.

There is good reason for that, Mr. President. The National Labor Relations Act specifically and expressly permits construction employer and construction unions to enter into project agreements or pre-hire agreements. Permit me to read the relevant section of the National Labor Relations Act, section 8(f).

(f) [Agreements covering employees in the building and construction industry] It shall not be an unfair labor practice under subsections (a) and (b) of this section for an employer engaged primarily in the building and construction industry to make an agreement covering employees engaged (or who, upon their employment, will be engaged) in the building and construction industry with a labor organization of which building and construction employees are members (not established, maintained, or assisted by any action defined in section 8(a) of this Act [subsection (a) of this section] as an unfair labor practice) because (1) the majority status of such labor organization has not been established under the provisions of section 9 of this Act [section 159 of this title] prior to the making of such agreement, or (2) such agreement requires as a condition of employment, membership in such labor organization after

the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later, or (3) such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or (4) such agreement specifies minimum training or experience qualifications for employment or provides for priority in opportunities for employment based upon length of service with such employer in the industry or in the particular geographical area: *Provided*, That nothing in this subsection shall set aside the final proviso to section 8(a)(3) of this Act [subsection (a)(3) of this section]: *Provided further*, That any agreement which would be invalid, but for clause (1) of this subsection, shall not be a bar to a petition filed pursuant to section 9(c) or 9(e) [section 159(c) or 159(e) of this title].

In sum, President Bush's Executive Order No. 12818 not only prohibited an otherwise legal practice. It prohibited a practice specifically and expressly protected by the National Labor Relations Act.

Let us contrast that decision by President Bush with this decision by President Clinton. This Executive order would prohibit Federal contractors from permanently replacing lawfully striking employees. Nowhere in the National Labor Relations Act is there any express language that gives employers a right to permanently replace lawful strikers.

Further, Congress has never spoken on this issue. My distinguished colleague from Texas stated on the floor of this Body yesterday that the Senate had rejected legislation that would have prohibited the use of permanent replacements. Once again, the Senator is simply and plainly wrong.

This body never got the chance to vote on the striker replacement legislation. A majority of Senators were ready to enact a bill that prohibited all employers from using permanent replacements. But a handful of Senators from the other side of the aisle filibustered that legislation. They never permitted it to come to a vote. Mr. President, that happened not once, but twice.

So, Mr. President, the fact is that there is a precedent for this Executive order. The fact is that this Executive order is well within the President's authority—an authority that Congress has specifically delegated to the President in our procurement laws. The fact is that this amendment interferes with the President's ability to serve as our Federal Government's Chief Executive Officer and in that role to assure that the taxpayers get the quality goods and services they deserve in a timely way from reliable Federal contractors.

So here we had an action by a former President trying to effectively override the existing statute with an Executive order and we did not hear really the complaint at that time about the use

of the executive powers compared to issuing of the Executive order at the present time which takes into consideration the very substantial and I find overwhelming evidence as to what is happening in contracting in our country with the use of the permanent striker replacements and the real danger that that presents to the administration or to the taxpayers in terms of both the quality and the on-time delivery and the efficiency of the various products.

I think, when you examine that, you will see the justification, the legal justification and I think the commonsense justification, for the issuing of that particular proposal.

Mr. President, we heard during the course of the debate yesterday another point that was made, those points being made about why are we doing this; why are we taking this action? Are we really not looking out after some special interests when the President issues this particular order?

I took the time to review some of the stories where the permanent striker replacements have been actually used and put in place to try and get some context for the issuing of this order and what it really is all about in human terms.

What I have just put in the RECORD is the memorandum from the Justice Department that details the legality of this action, looking at statutes and legal precedents. I have also included memoranda and studies that have been done in analyzing what has happened at a number of companies that have used permanent striker replacements and I have referred to other studies.

But I think it is appropriate, Mr. President, to really take a look at who these people are that are being affected, whose lives are being affected and families are being affected by the permanent striker replacements.

I would like to just take a moment or two to discuss different situations where permanent striker replacements have been used and quote from some letters from some of those individuals so we get some idea as to what we are talking about here this afternoon, who is really being benefited, whose lives will be affected and whose will not by this action.

Mr. President, there has been a bitter strike going on in California that illustrates many of the points that we have been making about the effects of an employer's decision to permanently replace its strikers. The strike at Diamond Walnut pitted a small group of determined women, many working at or near the minimum wage, struggling for dignity against an employer that sought to cut their wages and eliminate their jobs.

When these workers went out on strike, the company permanently replaced them. The workers' lives were ruined in many cases, and their fami-

lies suffered without money, without health insurance, without the certainty of knowing when they would next have a steady, reliable source of income.

If this Executive order had been in effect, Mr. President, Diamond Walnut would not have been able to make this ruthless decision to discard workers—many of whom had worked for the company for 10 or 20 years—without itself suffering the threat of losing millions of dollars in contracts with the Federal Government.

The Federal Government had contracts with this company in terms of helping and assisting in the export of millions and millions of dollars of its products overseas.

Here we have the American taxpayers' funds being used to help and assist this company that has been exploiting its workers.

And that is really the issue. It is whether the Federal Government will halt the additional kinds of benefits that it is going to give to various companies that are committed toward the hiring of the permanent striker replacements. If they are not—even the majority of the other companies, they are not going to be affected or impacted—but we have to ask ourselves if they are going to do that, whether we ought to be benefiting them through various kinds of Federal contracts.

Permit me to tell some of the stories of the workers and their families that have been devastated by Diamond Walnut's decision to permanently replace these strikers. These are the people President Clinton promised to stand up for.

Benny Pacheko was with Diamond for 5 years as a mechanic. Since the strike, he has been going financially backward. He is terribly afraid of losing everything, having to sell all of his assets because he cannot afford insurance premiums.

He writes, "The mental stress is horrendous. I feel I can't maintain what I have. All I have worked and saved for is going down the drain."

Benny is on disability due to an industrial accident while working for Diamond. He cannot get a job because of the effects of the accident.

"Thanks," he writes, "from the bottom of my heart for being considerate and understanding of the situation."

And he talks about how difficult it is to face life every single day.

Dorothy Granger was a lift driver for 13 years. This is not a traditional job for women. It is not easy finding work when you are over 30 and the work you do is usually done by men. Companies would rather hire a man for the job. It is what they are used to. Of course, they will not tell you that.

The strike is really affecting me financially. Bills are piling up and there's no money to pay them. I need my job. My husband and I are without medical insurance and I pray that nothing goes wrong.

Here is Gladys White, 47 years old. She started at Diamond in 1973 as a production worker. After 7 years, she begged to be moved to another area. The solvents Diamond used had burned her lungs and had given her headaches constantly. She got her transfer, although she was upbraided for having an active imagination. The chemicals could not possibly have caused her to fall ill, or so her supervisors and company nurses said.

But her health continued to deteriorate and in 1989 she was diagnosed with sarcoidosis, fibrosis, and tuberculosis. She went out on disability.

The strike caused her to lose her health benefits. She has to be on medication which costs \$100 per month. She has been denied Social Security disability.

My children try to help me, but it is a hardship for them. I am living with them as I cannot afford to live alone.

And she wants to thank those that are interested in her case.

This is another worker named Rachael.

I was a production worker with Diamond Walnut for 13 years. I have always worked hard and am self-supporting. I have tried looking for another job, but my age is holding me back. People don't want to hire those of us over 40.

Being on strike is so stressful. It takes a terrible toll on a person, both mentally and physically. I do not know what will happen from day to day. Without medical insurance I am frightened all the time that I will get sick and have no way to pay for medical treatment and end up losing everything to the State.

Here is another fellow.

Raul, a single father who was with Diamond Walnut for 11 years. He was counting on accrued time to turn into a nice retirement in another 8 to 10 years.

"I'm starting over," he says, "and I'm too old to start over. I'm an electrician and there are lots of openings for electricians out there. But when they come up it is only for one or two positions, and there are hundreds of applications. My age hasn't seemed to be a problem, but then that isn't something they'd tell me to my face."

Meanwhile, he has cashed in his life insurance and his savings bonds. His son was working but has been laid off. His daughter, still in high school, is working as many hours as possible. Her dreams of going to college are on the shelf now.

That is what hurts the most. I wanted so much to be able to help her through school. Now, even if she goes to State-funded community college, I can't afford to buy her books. But we're doing okay. We take each day as it comes. We have each other.

Ray Barbaza, a lift driver, worked his way up to that position over a period of 12 years. Sole supporter of his family.

The loss of benefits hit us hard. One time this last year we were all sick. I had to apply for MedCal. That was embarrassing enough.

but my son requires special medication and I had to go through every department they could find and get their "seal of approval." They made me feel like trash. Now I know how the homeless feel, having to throw dignity away and picking up the food basket. People should be productive and have pride in their ability, and take care of their own, but when you need help you swallow your humiliation and do what you have to do.

The stories go on, Mr. President. This was a plant where these workers took reduction of their pay when the company was facing a difficult circumstance. Profits then went up dramatically. They tried to get some recovery in terms of their wages and were permanently replaced. The Federal Government comes and helps to assist the companies. They are making dramatic profits. What has happened effectively is most of the workers have been replaced, and those that had been working over a lifetime for those companies are now facing a very grim future indeed.

Mr. President, I have some letters here that have been sent to our Secretary of Labor, who has been so involved in this issue, as well as in the minimum wage issues and other issues affecting working men and women in this country. He will go down in history, I think, as one of the really extraordinary Secretaries of Labor.

He has received a number of letters from men and women, because they understand how committed he is to their well-being. Secretary Reich has been kind enough to share three letters that tell the stories of three families that have suffered because a Federal contractor has used the taxpayers' money to permanently replace its striking workers.

This is on the Bridgestone/Firestone issue. Here is a letter to Mr. Reich, from Steve Barber.

I wrote you a letter a few months ago when my URW local 713 went out on strike after negotiations with Bridgestone/Firestone failed. Since then I have been permanently replaced by replacement workers. I have a wife and four children; two children are still at home, we support a daughter in her first year away at college, and our oldest son is serving his country in the U.S. Army.

At age 45, after almost 23 years at Bridgestone/Firestone, everything I've worked for is gone. As I walked picket this cold Superbowl night, I saw many young people leaving the plant. They now have my job. My advice to them: Do not start a family, do not get a 30-year mortgage on a home, do not count on retirement or a long-range future with that company. For someday, possibly sooner than in my case, for one reason or another, you, too, will be used and discarded like a paper plate, your youth spent entirely for nothing.

I was discarded because I believed I had a legal right to strike in this land of the free and the home of the brave. I was discarded because I belong to a labor union and don't believe in giving up my hard won rights, and I won't cross over into what is now a non-union plant.

The past 7 months I have hoped and prayed this dispute would be fairly resolved. I appre-

ciate the support you, President Clinton and the many other Senators and Congresspeople have given us in trying to find a just solution to this situation. All I ask in closing is that you and President Clinton use any and all the powers at your disposal to end this senseless disruption that has changed and ruined the lives of my family, my fellow workers and my community.

And here is a second letter:

DEAR MR. REICH: I am writing to you regarding the Bridgestone/Firestone strike that has been ongoing for the past 6 months. My father is employed by the company, and he is a good father who has always been there for his children. However, he is a very proud man who would find it difficult to ask for help. I, on the other hand, am more than willing to do so.

The recent development of Bridgestone/Firestone threatening to fire all of the striking employees and permanently replace them has hit our entire family extremely hard. Although I and my brother and sister are grown and on our own, my father is nearing retirement and greatly needs to know that he will be financially secure in his golden years.

We are of the working class and do not have the luxury of worrying about such things as capital gains tax cuts or upper-class frills.

Needless to say how appropriate this letter is to read, today, after what we saw the House Ways and Means Committee do yesterday in terms of proposing the special consideration for capital gains, the benefits for which will go to the wealthiest individuals in this country. It is interesting we are debating this issue here that involves men and women who are workers trying to make a go of it to bring up their children, to pay their taxes, and to work, and here we are on the other side of the building where we meet this afternoon, just 24 hours ago, seeing proposed very substantial, effectively giveaways, to some of the more fortunate wealthiest individuals in our country.

Now, I get back to the letter.

Needless to say, we will not receive tax credits for laptop computers. My mother, my siblings, and myself are all teachers with a strong work ethic.

This is what this whole issue is about. This is about teachers. It is about workers, workers' families, about their children. It is about people that want to be a part of the whole American system.

However, I now fear all that my father has worked for during the largest portion of his life will be ripped away from him.

I know you are aware of this problem as I heard you explain on television that the Government cannot force Bridgestone/Firestone to settle with the union; however, I do feel there is much that can be done. The Government does not have to take a strictly hands off policy as they did not do this with either the Chrysler or savings and loan bailouts. In this case, economic pressures would certainly be a good motivator. Neither our Government nor its citizens should do business with a company who would permanently replace its legally striking work force, nor should they be legally allowed to do so.

There it is, Mr. President. This company wanted to go out and get the per-

manent striker replacements, so be it. All that the Executive order is saying is that they are not going to get additional business. We are not going to use additional kinds of taxpayers' funds to help assist this company. It has made that judgment. That is what this issue is all about, in order that we will protect the outcomes of the products that are being purchased by the Federal Government, and make sure that they will be top of the line, good products, made by a well-trained and well-disciplined work force.

The letter continues:

I am pleading with you to assist us in our fight which may now seem hopeless in the wake of the November elections. On the other hand, my father always says, "You can't gain anything worthwhile without a struggle—this country was born in a struggle!" I urge you to aid us in our struggle until a resolution to this strike is reached and until a law is passed that will protect all striking workers in the future from being replaced. After all, union members should not be persecuted for standing up for what they believe in and going out on a legal strike. Striking is one of the few acts of leverage that union members have to be heard.

That is from Marilana Hurst.

Here is just one other item to the Secretary, a short letter:

The American factory worker desperately needs help.

I need your help.

After 26-plus years, I have been permanently replaced by Bridgestone/Firestone at the Decatur, Illinois facility, for no apparent reason.

I have a factory-related permanent injury but it in no way affected my position as mold change/cleaner setup person.

Since Bridgestone bought our plant we have given scores of concessions, including * * *

And he mentions some of the health plan giveaways.

Our total efforts as union members at 3 of the Bridgestone/Firestone plants have made them some of Bridgestone's most profitable plants, with Decatur, Illinois, Firestone Tire the most profitable tire plant Bridgestone had in the world in 1993 according to their own books.

These are companies that have had enormous success, incredible profits. This is what we are talking about, the extraordinary phenomenon that has taken place in this country over the period of these last several years where we have had record profits from so many of the companies, for the companies and for individuals. Yet, the people who have not participated in that kind of enhancement of our economy are the men and women who are out there working on the frontline.

They are the ones who, in many instances, have given their lives to companies and plants and factories and then are being discarded. There are two kind of employers, as we all understand. There are those who believe that the workers are an asset, that they should be trained, respected, and be a part of an enterprise with the idea that they are going to commit themselves

to that enterprise and that enterprise is going to grow and expand.

This morning at a forum we held on increasing the minimum wage, we heard the extraordinary story of Mr. Curry, who owns three hardware stores on the south shore of Massachusetts, and is able to compete with the biggest operations in the country. He starts his people off at \$10 an hour for a minimum wage with decent benefits. He does not have the turnover; he does not have to expend the money to train more people. He has good workers. He does not have absenteeism. He does not have the sick days that other companies have, and he provides a savings incentive also.

A number of those people who have worked there 5 and 6 years now have savings of \$3,000, \$4,000, \$5,000, which they never imagined in the past. They are good workers. He has virtually no turnover, and had a 38-percent increase in sales last year, is able to do a job, and respects every one of the workers. He is not discarding them, throwing them out after a lifetime of dedication and commitment and work.

All we are saying is, if you are going to do that, Mr. Corporation, if you are going to do that, Mr. Executive, if you are going to treat your people like that, we do not want to support that with American taxpayers' money. We do not want to do it, not just because we do not want to, but because what we see when we do is more disruption, poor quality, poor productivity, and poor turnout on many of these items. That is what is unacceptable.

I welcome the fact that the President is looking out after the issues of quality and productivity and output, particularly with regard to the areas of greatest need, and that is in the area of national security and defense.

As I mentioned yesterday, we produce in my own State of Massachusetts at General Electric the engines for the F-15's, F-16's, F-18's, the advance fighter, and many of the best helicopter engines, as well. We want to make sure that the servicemen and women who are flying those planes are going to have the best in terms of the skills of workers who know how to build those engines, not permanent replacements for a few bucks cheaper an hour. I want to make sure that those men and women who are going to be flying in those planes and using weapons to defend their lives are going to have the very best. I am not prepared to take chances on it. That is what this is all about.

The letter I read was from Glen Buckner of Decatur, IL.

Mr. President, I will have other letters as well, but the point, I think, has been made, and that is that what we are basically talking about are the interests of working families. We hear so easily bantered around, "Well, this is special-interest legislation for special-

interest groups." You have heard who these people are. They are the men and women who are on Main Street, USA, who are the backbone of this country, and have built this Nation and made it the industrial power that it is. They are the ones committed and dedicated and loyal to their companies and to their corporations and who are trying, after they have tightened their belts and worked with company officials in order that the companies survive, to be able to participate in the expansion of the market—oh, no; oh, no; that is not possible.

That has been the record across this country. That has been the record across this country over the period of the last 12 or 15 years. That is something that has been a new phenomenon, and that is why it is important as well that we have this particular action.

Finally, Mr. President, having addressed both the legality of the President's position and the rationale for the issuance of this Executive order, I reviewed briefly today, along with my colleagues, Senator SIMON, Senator HARKIN yesterday, Senator MOSELEY-BRAUN, and many others who have talked, the citizens who are really affected by it. We now hopefully know who are the ones being impacted, and they are the families across this country, hard-working men and women. These are workers. They are the ones who are prepared to work the 40 hours a week, the 52 weeks of the year. These are the ones who are trying to educate their kids, trying to make sure their parents are going to live in some peace, some respect, and some dignity, and are facing the various pressures from all sides, particularly in these past weeks, I might add, that are threatening their lives or their families' lives.

That is why I think it is really extraordinary, as I mentioned yesterday, why it is that after we in this Congress spent a number of weeks debating the unfunded mandates issue, which we should and we did, and reached a conclusion on that, and then debated for a series of weeks the whole issue on the balanced budget and the changes in the Constitution and we have debated that and we reached some judgment and decisions, extremely important measures that we have been focusing on and addressing. There may be Members who agree and differ, but nonetheless the level and the nature of that debate and discussion was clearly motivated by individuals who were pursuing a national interest.

The next measure—the next measure—that we are debating on the floor of the U.S. Senate is not how we are going to enhance the quality of life of working families in this country; not what we are going to do about the children in this Nation, the increased numbers living in poverty; not what we are going to do about those young teenagers, not about how we are going to

enhance their possibilities in schools and education; not about the children of working families trying to work their way through college; we are not even talking this afternoon about the security in the communities of these working families; we are not talking about the air they breathe; we are not talking about the water they drink; we are not talking about the quality of life of their parents. No, what we are talking about this afternoon is how we are going to diminish their economic power in being able to fight for a decent wage to provide for their families.

That is what we are debating here. We debated it yesterday, and we are debating it today. We are going to be debating it on Monday. We are going to have a cloture vote on that to see how we can jam, how we can squeeze, how we can pressure down the economic rights of working men and women. That is what we are debating here.

As I mentioned the other day, at the end of the debate today, who among us is going to go on back to their house and say, "Look, I did something in the U.S. Senate today that is going to give a little more hope to children, to a mother in terms of a day-care program. We are not going to be able to do all the things we want, but we are going to do a little something. It is going to be better tomorrow or the next day." Or, "I am going to do something to strengthen the quality of education." Who is going to leave here tonight believing that? Or, "I am going to do something that is going to mean greater economic good for the workers of the country." Who is going to do it? No one is going to do it.

What we are going to do, some of us, is go back and say that we tried to work for working men and women against an overwhelming onslaught that somehow believes we are out of skew in terms of the power of the working people.

I am on the Human Resources Committee. What have we been facing over the period of the last week? Repeal of the Davis-Bacon Act. Let us go ahead and repeal that act. Who benefits from the Davis-Bacon Act? The average income for working families is \$27,000 a year for some of the toughest work in this country, working in construction—\$27,000 a year.

What in the world have we got against working families that are making \$27,000 a year? Is that what is ringing across this country, we have to undermine their ability to make that amount of money? Is that what people are crying about? Not in my State of Massachusetts.

We are trying to diminish their ability by the changing of just the prevailing wages. Maybe there are suggestions and ideas of how to make it more efficient. Maybe it has to be adjusted to eliminate paperwork. That is fine. We have had hours of hearings on that.

We have had hours of hearings about what they call the 8(a)(2) provisions of Taft-Hartley. What effectively that means is let us eliminate the real essence of the Taft-Hartley Act so we can eliminate company unions. Why? Because of the power, the power that is out there in the trade union movement?

I have difficulty, in reading my mail, seeing that that is something of a burning, passionate interest to the people of our State. What they want is decent jobs with good benefits and a good future and doing something about violence in the community and strengthening education.

But, oh, no, here we are trying to do something to undermine workers under Davis-Bacon. We are trying to do something about changing Taft-Hartley laws, about the power, the power of workers, trying to represent economic interests of working people.

What are we saying? It is all out there. That is part of the things we have been doing in January and February. And then in the meantime what are we doing about the children of these working families? Well, I will tell you what we are doing. We are cutting back on giving any kind of day care support to families. We are cutting right back on that. The families that are trying to make it, both parents trying to work, needing a little day care, we are cutting back on that program.

And then we have a son or daughter that we would like to be able to help, because we live in a major city, to make sure that kid over the course of the summer, for those parents who are working hard to keep them in school, make sure you try to keep them out of trouble. Oh, no, we are cutting all the summer jobs programs, not only for this summer but the summer beyond that. We cannot wait to do that. Cut that out, too. Cut that out, too.

So now we have done that. And just by the way, if you happen to have a child, because you are out there working, who happens to get into a good community college or State college, you have, as in my State, the highest public college tuition in the country under my Governor. We had an excellent university system. In those budget cuts, we are sticking it in Massachusetts to college students with higher fees and higher tuition. So we are No. 3 in the country in terms of the costs going up.

But we are not satisfied at what has happened up there. We are going to say that anyone who borrows the money is going to have to also pay the interest for that borrowing while they are in school. And in the meantime, you might have the idea you want to work while you are in school in a work-study program. Who qualifies for work-study programs? Middle-income working families. We are going to eliminate

that as well. You are going to have to pay more, and we are going to deny you the opportunity to work while you are going to school.

Mr. President, you have to ask yourself what has happened out there, what has happened across our society, that we are declaring war? That is what this is. We will have seen battlegrounds in countries that have been at war that will be not as adversely impacted as what we are doing to working families, to their children, the very small.

I have not even mentioned cutting back on the WIC programs. I have not even mentioned cutting back on the school lunch programs, cutting back in terms of special education for economically disadvantaged, cutting back on their teachers. We have not even talked about that out here.

So not only are we diminishing the power of those who are attempting to work and want to work—two members of that family—we are after their children, the very small, the most vulnerable, those in their early teens who may need that opportunity to begin working when they are 13, 14, and 15 in programs that bring together the public and private sectors in extraordinarily cooperative ways as they have done in Boston, MA, the great, great cooperation in the public and private sector, as they have in education with the Boston compact that basically says to any kid that is able to gain entrance into college, they are prepared to raise the funds to augment and supplement that program so that kid can go on into school and college, the public and private sector working together. We are drawing that right on back. We are unraveling it, pulling the threads on those kinds of agreements and contracts.

On a Friday afternoon, with the American public as concerned as they are about the state of our economy, with more hopeful news today as we have seen unemployment go down across our Nation with some 350,000 new jobs which have been created, we are out here now talking about how we are going to undermine the working families.

Mr. President, I have not even mentioned the suggestions that have been made, as I look over and see my friend and colleague from West Virginia, who has been such an advocate on the health care issue, I have not even mentioned the kind of concern that must be out there for all of our senior citizens when they read the articles in the newspaper by our friend and colleague, the chairman of the Finance Committee, talking about the hundreds of billions of dollars in Medicare cuts that they are going to pursue in the period of this Congress that are going to impact our senior citizens.

And the other side of that, Mr. President, is to do what with them? Give tax advantages to the wealthiest compa-

nies and corporations and individuals. Now, that is the view that many working men and women must look at in terms of where we are in the Congress. It is not a hopeful picture.

Mr. President, I am sure they are asking why, what did they ever do, trying to provide for their families, what did they ever do to deserve that kind of a threat? It is difficult enough, difficult enough, if you are looking at the real incomes of working families, the working poor, the lower—the four-fifths effectively, most dramatically in the three-fifths of our various tax filings, but almost four-fifths that have been constantly going down, constantly falling further behind.

Here we are out on the floor of the Senate with a proposal which says that if the company is going to have permanent strike replacements, we are not going to give them additional kinds of Federal largesse. And we have those who are so antiworker they are prepared to hold up the defense appropriations bill and to have us spending days here, which I welcome the opportunity to do, to speak for the working families. But we take up the time of the Senate to do it.

Mr. President, it just is unwise to attempt to tamper with the justification, legality, or public policy purpose for the President's Executive order. I will look forward to having more to say about it later in the debate.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I just listened, as I always do, very closely to my friend, the senior Senator from Massachusetts, and not only identify myself with what he says but the compassion with which he says it, and the persistence. He never quits. There is no Senator in this body or in the recent history of this body who ever fought so hard for so many things so constantly, whatever the hour, the day or the night, than the senior Senator from Massachusetts.

He has been talking a lot because not enough of us have come down to the floor to help him. You can hear the hoarseness in his voice. I have heard cracks in his voice, and they have been when he has spoken at the funerals of, most recently, his mother, and to mourn the death of his two brothers, Robert and John. I heard cracks in his voice then. He did his best to prevent that, and then, at the end, could not quite avoid it. And I think we all sort of wanted that to happen so we could share in his grief.

But if you hear cracks in his voice now it is because he is fighting just for what they would fight for. But he is tired. His voice is tired, but his spirit is not. I respect him.

There is a fellow sitting next to him by the name of Nick Littlefield who

ought to be a Senator in this body from somewhere. He is Senator KENNEDY's chief of staff and he is everywhere where he needs to be. His optimism and his fighting spirit is matched, obviously, by the man with whom he works. But there is not any good cause or battle that Nick Littlefield will stay away from. So with the two of them on this floor all by themselves except for the junior Senator from West Virginia, I am proud to be down here this afternoon.

That is not to say I do not have a great deal of respect for the Presiding Officer who, I expect if he wanted to mix it up, would do pretty well, too. Although I suspect we might be on different sides on this particular issue.

Mr. President, everything he said is true, I might say to the senior Senator from Massachusetts. I hope that come next Sunday he will see 1,000 children bused in from all over this country, being fed by Members of the Congress—dinner, lunch—and then joining hands with Members of Congress, literally surrounding the Capitol. Literally hands around the Capitol—little children and children not so young—but all children who are about to have their hot lunches taken away or their breakfasts taken away or something else taken away from them by the zeal that exists around here to cut back on what is necessary for some people in our country to survive and to live while finding ways to increase the wealth of some of us who, frankly, do not need a whole lot more.

It is all very perplexing to me. I grew up in one party, the Republican Party. I became a Democrat at the time that President John F. Kennedy was President because I worked in the Peace Corps. Then I worked for the State Department, then VISTA. But over these past couple of months, this period of time alone has made me understand—not that I had to—why I did what I did and became a Democrat.

Because we are talking about lives at stake in the matter of this Kassebaum amendment. We are talking about situations where I myself have seen families torn apart.

Probably one of the most famous examples of strikers being replaced—at least in the recent years, and maybe not the most famous, but the most famous to me—took place in West Virginia, at a place called Ravenswood Aluminum. It lasted a year and a half. It was terribly bitter. It was terribly dangerous. It was so dangerous that people wanted to stay away from the area.

The Ravenswood story is about people of West Virginia who are not necessarily born with a silver spoon when they are born. They have to work. So when Ravenswood locked out its own workers, and replaced them with something called permanent replacements, we literally saw situations in families

with a striker-replacer brother and a striking brother; or brother/sister, in the same household. Husband/wife; brother/sister; uncle/nephew. Those scars still exist, and the anger and what it did to that community have not yet fully healed.

I gave a speech there not long ago. That community has not yet recovered. That is what they still talk about and the crisis was several years ago.

So I associate myself with what my friend from Massachusetts has said. I also want to note the irony, which I think he perhaps raised before but I did not hear it, and that is the irony that the Kassebaum amendment is holding up a package before us to reduce the deficit and supplement the Defense Department.

Let me start by emphasizing that this question posed by Senator Kassebaum's amendment is clearly stalling the passage of a bill which has enormously broad support for very obvious reasons. The Kassebaum amendment has slowed down a bill that would cut the Federal deficit by \$1.5 billion as soon as it is signed into law. I do not know how long it takes to print up a bill and send it over to the White House, but I expect it could be by Monday or Tuesday. The President would sign it and the deficit would go down \$1.5 billion as a result.

We have been here for the last several weeks and month or more debating deficit reduction. How to do it, by an amendment to the U.S. Constitution? Or by human endeavor?

The Kassebaum amendment has slowed down a bill that will make our military forces more capable of dealing with national security emergencies or dangers, which is something not only folks on this side of the aisle talk about, but almost to a person the folks on that side talk about constantly. This will not happen for as long as this amendment prevents it from happening.

So let us be very sure that the American people understand what is in fact going on, on this floor. A week and 1 day ago, 28 Senators put together this bill, to both replenish critical parts of the budget for the Defense Department and cut Government spending in order to reduce the deficit. We could have passed that bill yesterday. Everybody was here. It is hard to do that today because very few people are here. We could have appointed Senate negotiators to work out the final details with the House. They could have met over the weekend. I expect they would have met over the weekend. They would have been meeting today. They probably could have reached an agreement today—and seen the Federal deficit come down as a result, after the President's pen struck the bill and signed his name.

But instead we have an effort to strengthen our military forces and to

cut Government spending being held up by this amendment that has absolutely nothing to do with either of these critical objectives.

I find that ironic, I have to say. I just find that ironic. It is incredible to me to see this impasse over a deficit reduction bill after every single Senator on the other side of the aisle, except for one lone voice, who some want to drive from his party, spent more than a month demanding the passage of a constitutional amendment because they felt so clearly that there could be no other way to reduce the deficit.

The fervor on the other side of the aisle over the balanced budget debate was remarkable. There was an awesome display of unity and singlemindedness. Once again, we are seeing proof that the balanced budget amendment is a very different matter than actually cutting Government waste. It is one thing to talk about it. It is another thing to do it—it's another thing to actually take tangible, real steps to cut that budget deficit. We are ready to do it. So if my colleagues on the other side of the aisle are so determined to really deal with the deficit, then why are they throwing up roadblocks to this amendment, which is an Executive order of substantial simplicity, which I will get into in a moment?

The Senate, although I suspect we could convince very few Americans of it, particularly when we do things like this, is not a political convention. It is supposed to be the place where we use our powers, our brains, our judgment, our convictions to get important work done.

I thought we had agreed on the need for this bill before us. In fact, 28 Senators last week, by a unanimous vote in the Appropriations Committee, did agree on that. That is where I understand 28 Senators to be—Republicans and Democrats—unanimous in their support for this bill. All the Senators who voted for this bill agreed that military readiness and deficit reduction should take priority over everything else that could take place during the course of this week. Nothing transcended that in importance, a proper judgment by both political parties.

But I guess that is not the case with some of our colleagues. I guess I am wrong. Instead, we have to burn up time talking about an amendment that tries to stop the President from doing something that is quite simple, that deserves support from both business and working families.

The President's Executive order, which this amendment attacks and seeks to defeat, is an effort to impose a basic condition on Federal contracts that by definition are financed by American taxpayers. We are not even talking about totally private arrangements. The condition in the Executive order says that businesses that want

Federal contracts—and there is no law saying that a business has to seek Federal contracts—should not be ones that deal with valid, legal labor disputes by hiring workers to permanently replace their own employees.

The President's Executive order does not take away a business' ability to hire temporary replacements when dealing with a dispute. I repeat: If there is a labor dispute or a strike, a business can hire temporary workers for the duration of the dispute or the strike. And, therefore, this order does not expect a business to stop production. This order does not expect to close one iota of anybody's operations down or do anything to lose one dime of business. It simply upholds the principle that when the law—that is, the Federal law—gives workers a right to collectively bargain, or the right to protest conditions or practices, then employers do not have the right to punish those workers by eliminating their jobs for good.

That is not very complicated. I do not think that is particularly difficult to swallow. In fact, it was something that was fairly broadly accepted in the business community until all of a sudden it suddenly became an issue because some people wanted to make it one, and it has been one ever since.

So we have these votes more or less on an annual basis. We have a Federal law that gives workers the right to collectively bargain. That is established fact in this country. Some people like that. Some people do not like that. But that is the law. And it is available to anyone who collectively bargains.

They have the right to protest conditions. Well, I work in a State, and so do the rest of us, where conditions are not what they ought to be in a few places. Since all of us here in the collective body politic tend to get around our States a great deal, visiting plants and facilities, we see situations like this unless we close our eyes. We see situations like this. It is not very often, but we do see them and we do know that in our hearts. We know that.

So if workers lawfully and legitimately protest unsafe conditions or practices, then employers do not have the right to punish those workers by permanently eliminating their jobs. Replace the workers while the dispute is going on, that is permissible. Operations do not cease. Profits do not cease.

If you come to West Virginia and you have 100 job offers—at a Rite-Aid Drugstore or somewhere else—you will get 1,000 to 1,500 applicants, Mr. President. I suspect in some parts of the State of the Presiding Officer, that is true, too. It is uplifting in one way. It is just incredibly sad in another. People are so hungry to work that 1,500 people turn out for 50 jobs, jobs that often do not offer any health benefits. But they are jobs and they are better than not hav-

ing jobs, and people want to work in both the State of Pennsylvania and the State of West Virginia. So people turn up.

This Executive order does not and cannot prohibit permanent replacements in all labor disputes. It simply says to businesses that, if you want to benefit from Federal contracts paid for by the taxpayers, you need to uphold certain standards, standards long established, long followed, long not disputed, accepted until all of a sudden they became an issue. The American people are constantly telling us they want Congress to get their money's worth when taxes are spent on Government programs and contracts and benefits.

Mr. President, I would argue that the Executive order is designed to do exactly that. Look at the research. It is a fact. Strikes involving permanent replacements last seven times longer than strikes that do not involve permanent replacements. So that is seven times more grief and economic and personal and family and community agony that need not be. Those are the facts.

If there are permanent replacements, the strikes, the worker disputes, the worker-management disputes will go on seven times longer. Strikes involving permanent replacement workers tend to be much more hostile, much more painful for both sides, and often turn what could be a fairly brief period of disagreement and negotiation into a much longer and often, I am sorry to say, violent impasse: gunshots, attacks on the roads, baseball bats, intimidation from both sides.

Permanently replacing striking employees can mean trading in experienced, skilled workers for inexperienced men and women. It does not have to mean that. It does not always mean that. But it can mean that. That is not to the advantage of anyone either, particularly if the business wants to continue to make a profit, to do well, and to compete on an international basis.

Mr. President, asking businesses that want Federal contracts to resist dealing with labor-management disputes in ways that are more costly, in ways that are more contentious and contrary to the principle of collective bargaining and cooperation, is not something that should be holding up a deficit reduction and military readiness bill, in this Senator's opinion.

I suggest to all of my colleagues that it is not in anybody's interest to struggle over the issue of replacement workers with so much blustering conflict amongst ourselves. Congress should be encouraging cooperation and doing everything we can. That is what all of the study groups on competitiveness tell us to do. We should encourage cooperation between both management and labor and between business and workers. We should treat the idea of collective bargaining as a friendly and, frankly, a very American concept.

There is nothing wrong, Mr. President, with collective bargaining. It is the way that people improve their conditions. It has a stark pattern. I remember going to South Korea 10 years ago. They did not really have any labor unions in South Korea 10 years ago. As of about 2 or 3 years ago, they had over 3,000. What has happened? Yes, there have been some incidents, some strikes, and that is natural as a labor union and a company try to come to terms with each other. Wages have started to increase, conditions have started to improve. The national wealth of South Korea is now growing enormously. Japan went through this. I spent 3 years as a university student in Japan, at a time when labor was not strong, and then it became strong and now Japan has a higher industrial wage than the United States. The average worker makes more money there than they do here. And Japan is not particularly known as a country that is hard to do business with, if you get along with the Japanese. If you are an American company it could be harder, but amongst themselves, they do well.

So we should not treat the idea of collective bargaining as some kind of bizarre concept. It is inherent to the roots of this country and, quite frankly, I do not know where we would be without it. If half of this body really wants to encourage employers to resist problem solving and dispute resolution by hiring permanent replacements, then that is encouraging more conflict in the workplace and in our communities. Again, strikes are seven times longer where permanent replacements become the issue.

As I indicated before, I have great, painful knowledge about what happens in these situations. If you go to the community of Ravenswood, WV, a beautiful community in Jackson County, right by the Ohio river, employers were deciding whether to lock out their own workers, 1,700 of them—that is an enormous work force in that part of West Virginia—with permanent replacements. They made that decision. Everybody in West Virginia, including this Senator, watched the hurt that this labor dispute caused; it was genuine hurt—this is not a political speech. It was a genuine hurt within families. Families were just torn apart because, on the one hand, the need to work, and on the other hand, the need to play fair. This tore families asunder, and it was real. Families still do not speak to each other because of this issue. We watched this for over a year and a half in West Virginia, a State that can ill afford to have 1,700 people not working because an employer had the ability to punish its workers this way, and this employer tried very hard to punish his workers that way. It was violent and it was scary, and it hurt the image of West Virginia badly. We will never know how many families might have

been saved from financial ruin, if the employer would have simply dealt with the labor dispute and gotten it resolved quickly.

Mr. President, I truly do not believe Republicans in the Senate need to take up the cause of businesses that want the power to punish workers with something called permanent replacements. We are talking about a relatively few number of businesses—the relatively few who, in a strike, will decide to punish in this extreme manner. Sometimes an employer will take this action during the course of the dispute and sometimes that will be the purpose of the dispute from the very beginning—to break the union, or something else. But it is the few. It is not many. But when it happens, it is awful. So we are not talking about a typical situation; we are talking about a very untypical situation. That excessive power simply is not necessary. The Executive order under attack by the Kassebaum amendment would still retain any business' lawful ability to bring in temporary workers, while a labor dispute or strike is getting resolved. But the point is that we should encourage cooperation, we should encourage resolutions to conflicts.

The Presiding Officer and I both come from States where there is a lot of coal mining. I can remember the days when, in my State, there were constant things called "temporary restraining orders" going before judges. Every time there was a dispute at the face of a mine between a worker and management over some little issue, or some big issue, the first thing they did—and the parallel is in the tort reform bill, where I expect the Presiding Officer and I will be on the same side—the first thing they did was call a lawyer and go to court. Then, of course, everybody got hostile and anxious, and the dispute went on forever, and no coal got mined and people did not make money and people could not put food on the table. The temporary restraining order—whatever happened in court—would be appealed.

Finally, management and workers decided in the coal industry in our State to simply say this is ridiculous, we are both losing. They sat down and worked out a way of working out their disagreements, which was to say that when a dispute occurred over a working condition or some rule or something at the face of a mine, which is underground where the wall of coal is, that the worker and the foreman at that area simply talked and worked it out right there. They agreed, workers and management, that this would be the system. I may have to fault my memory on this, but I think for 8 or 10 years, we had no temporary restraining orders whatsoever. Mining employers and workers simply decided that they were going to improve labor-management relations and they wanted it to

work better. They wanted to be able to export coal which meant Japan, South Korea, and Canada had to depend upon the coal coming. Therefore, there had to be dependability and consistency that was in the interest of both workers and management. So they settled their disputes. I am talking about nothing different here.

But even if there is a situation where there is a labor dispute, still a company can bring in replacement workers until the dispute is resolved. The point is, we should encourage the cooperation and resolutions to conflicts. We should try to prevent painful, costly, divisive situations that break out—in Ravenswood and the other communities that have been discussed on the floor over the past day or so.

Again, I cannot understand why the President of the United States should not be allowed to condition Federal contracts on practices that would make us more sure that taxpayers' money would be spent efficiently. The logic of that, again, is where you do not have permanent replacements you have much shorter labor disputes by a factor of 7 and, therefore, money is saved for the taxpayers.

There is a lot of talk on this floor about playing by the rules. This Senator does some of it and a lot of Senators do some of it. Should not the President of the United States be able to suggest that businesses that want Federal contracts play by the rules as well? I mean, is that not reasonable? It is very obvious from statistics that workers and their families do not want to resort to strikes. When has there been a strike that has not been destructive of workers' interests, and especially in the short term?

People, generally, in this country want to work hard and make a good income and support their families. People have no choice but to work hard. But when the rare dispute breaks out, they should not have to fear the elimination of their jobs just because of a disagreement over wages or health benefits or safety standards. And I believe that deeply.

The Kassebaum amendment should be defeated on many grounds. It is a disruption to the first time this year that this body has finally been able to do something real about the Federal deficit and Government spending. The amendment is an effort to take the President's ability away to set some practical standards on how Federal contracts are given out. And this amendment will only encourage more labor-management conflict and strife, and everybody here knows that. If this amendment prevails there will be more of it which is not in anyone's interest.

I urge my colleagues to put aside the divisive tactics over issues that have to do with workplace and with relations between business and workers. Ask the families in Ravenswood, WV, what hap-

pened when an employer is allowed to respond to a labor dispute with permanent replacements. The answer is pain. The answer is suffering. And it is all totally unnecessary.

Everyone in the Senate should take a fresh, objective look at this issue, which is very hard for people to do. The lines are so set on it. Too many people here stopped actually thinking about this issue long ago and took positions. And in this case, I think that those who oppose this would do well to take a fresh look and not think about who is on the side of business and who is on the side of organized labor and what kind of points can we build up. That is irrelevant. All 100 of us should be on the side of cooperation. All 100 of us should be working to uphold the law that grants workers the right to collectively bargain. All 100 of us should insist that we get on with the job that the bill before us is about, which is called reducing the Federal deficit and increasing our national security.

I feel a special sense of obligation, I say to the Presiding Officer, because I voted against the balanced budget amendment. I feel a special sense of obligation to get about the business of deficit reduction. I mean, there will be some areas where I will disagree with the majority, but there will be many areas where I will agree. I feel an obligation. Reducing the deficit helps the people of my State, too, in terms of future generations. Just as I think it was wise not to include, hopefully not to include, Social Security in any budget balancing effort, because people have a right to retire with dignity and confidence.

So I hope this amendment will be defeated. I think that is important. This issue comes up every year and I know it is treated sort of automatically by both sides. But it is not an automatic issue. It is an extremely real and personal one. It has to do with the fundamental rights of people. It is not something which happens that often. We create more havoc in taking up this fight every year than if we let the President simply go out and do what Presidents ought to be able to do in the interest of business and working people.

I thank the Presiding Officer and yield the floor.

Mr. HATCH. Mr. President, I rise today in strong support of the Kassebaum amendment.

I must admit, Mr. President, that in listening to some of the debate today, I have felt like I am in a time warp. Congress has had this debate last year, the year before last. We have been here before. And, in earlier debates on legislation that would have prevented employers from using permanent replacements during an economic strike, that legislation did not pass.

Notwithstanding Congress' failure to pass this legislation, it's back. The

President has gone ahead on his own and by Executive order unilaterally imposed a major overhaul of labor law on Federal contractors.

I know there has been discussion on the floor on Executive orders issued by Republican administrations, but there cannot be any doubt that the current effort is unprecedented: This Executive order does not uphold existing law—it voids it.

I would urge my colleagues on both sides of labor issues to think twice about the type of precedent that this creates. This Executive order relies on the fact that use of replacements purportedly lengthens labor disputes. Does that mean that our next President can come along and by Executive order outlaw the right to strike by employees of Federal contractors?

The Executive order issued this week does not uphold rights guaranteed under law; it abrogates them. And the President's striker replacement policy is not merely an exercise of procurement prerogative, it regulates private labor relations and restricts private rights guaranteed under law.

I urge all of my colleagues to support Senator KASSEBAUM's amendment to withhold funds for this Executive order's implementation and enforcement.

Mr. DASCHLE. The practice of permanently replacing workers who are exercising their right to strike, as guaranteed by longstanding Federal labor law, is wrong. It is wrong to punish striking workers for exercising their rights, and it is wrong to use replacement workers to disrupt the collective bargaining process.

Since 1935, the National Labor Relations Act has expressly protected the right of workers to strike over economic conditions. Moreover, the act promises workers that they cannot be discharged by their employer for exercising this right.

Under current interpretations of the law, employers are not violating the National Labor Relations Act when they hire replacement workers during a strike and promise to make those positions permanent. Rather, these employers are taking advantage of a true anomaly in Federal labor law, one which sets out a dubious distinction between firing a striking worker and permanently replacing that worker.

To the worker, however, it is of little comfort to know that he or she has been permanently replaced rather than fired. The result in both cases is the same, and the right to strike becomes a right to lose your job.

I believe strongly that the Congress must pass legislation to get rid of this anomaly in Federal labor law. Unfortunately, a minority of the Senate was able to block passage of such a bill last year.

Having said that, however, I must emphasize that the President is not attempting to do by Executive order

what Congress was prevented from doing last year.

There can be no disagreement that our Founding Fathers entrusted Congress with the power to adopt the laws of the land. To the executive branch, they assigned the duty of implementing those laws.

If the Executive order issued by President Clinton upset this balance of power, I would strongly oppose it. But it does not.

Rather than usurping the policy-making role of the Congress, this Executive order sets out the terms under which the executive branch will fulfill its own constitutional role.

Implementing the laws passed by Congress involves the procurement of goods and services by the Federal Government. To do this, the Federal Government enters into contracts with suppliers, as any business would do.

In these dealings, the Government wants the same things that businesses want: a quality product, a reasonable price, dependable service. And like any business, the Federal Government selects the suppliers it believes are best able to meet these objectives.

Indeed, with precious taxpayer dollars at stake, I'm sure most Americans want the Government to do business with only the most stable and reliable companies.

Are companies that replace their workers during a lawful labor dispute the most stable and reliable suppliers for the executive branch? The President—the CEO of the executive branch—has determined that they are not.

The use or threatened use of permanent replacement workers makes strained labor-management relations even more contentious. In fact, disputes involving replacement workers last seven times longer than disputes that do not.

A company that replaces its workers during an ongoing dispute is trading in its experienced employees for inexperienced ones. This necessarily raises questions about the timeliness of delivery and quality of product these replacement workers will produce.

Should the Federal Government take a gamble on products that might not be up to snuff? The President has determined that it should not.

Let's not forget that NASA and the Defense Department spend a large percentage of the Federal Government's total procurement dollars. When it comes to space and defense programs, it is critical that these dollars go to contractors of the highest caliber.

On the other hand, it must be noted that this Executive order will not prevent the Defense Department or any other Federal agency from contracting with the supplier that best fits its needs.

In fact, the order specifically guarantees the flexibility of an agency to

enter into contracts with companies that have been debarred by the Secretary of Labor if a compelling reason can be shown.

My Republican colleagues are suggesting that President Clinton has taken an extraordinary step by issuing this Executive order. On the contrary, Executive orders have been used throughout the years by Democratic and Republican Presidents alike to set forth important policies of the Federal Government.

And addressing the issue of labor-management relations in an Executive order is not new, either. President Reagan did it in 1981 when he permanently banned the striking PATCO members from returning to their jobs as air traffic controllers.

And President Bush did it twice in 1992 when he issued Executive orders to prohibit the use of prehire agreements on Federal construction contracts and to require Federal contractors to post notices with regard to union membership.

What it comes down to, then, is this: President Clinton has revised the executive branch's procurement policy—nothing more. And he has done it in a way that will help ensure that the Federal Government obtains the best goods and services it possibly can from its suppliers.

If the chairwoman of the Senate Labor Committee disagrees with this policy, she should introduce legislation to overturn it.

That bill should be the subject of hearings by her committee and considered through the normal legislative process, not tacked on to a supplemental appropriations bill.

The chairwoman is attempting her own end run around the legislative process. I urge my colleagues to reject this effort and to get down to business with what is a very important measure to our national defense.

IMPACT OF RESCISSION ON DOE CLEANUP PROGRAM

Mr. GLENN. Mr. President, I rise today to express my strong concerns about the impact this rescission will have on DOE's nuclear weapons cleanup effort. The bill we have on the floor today reduces current year money for the cleanup program by \$100 million. Other amendments being discussed may add to this cut. And we see where the House energy and water appropriations bill will reduce this year's funds for the program by an additional \$45 million.

Quite simply, if this trend continues one outcome can be guaranteed. The cost to the taxpayer to complete the DOE cleanup—over the life of the program—will increase dramatically. By dragging our heels and refusing to adequately fund this program, we stretch out the time it will take and will increase the overall cost—not to mention the increased risks to workers and the

public who may be exposed to radiation as a result of these delays.

Mr. President, I think it is important to discuss up front what the DOE cleanup budget is and is not. The majority of DOE's cleanup budget is dedicated to simply maintaining millions of tons of radioactive waste and scrap and thousands of contaminated facilities in a temporarily safe and secure condition while we try to figure out what to do with this material over the long haul.

Let me repeat that. The majority of the DOE cleanup budget doesn't actually pay for anything to be cleaned up. The majority of DOE's cleanup budget pays for things like waste management and nuclear materials and facilities stabilization. While there are most certainly ways to reduce these so-called landlord costs—and DOE, under Secretary O'Leary and Assistant Secretary Grumbly are actively seeking ways to do just that—these costs simply cannot be wished away, nor reduced entirely. Only about one-quarter of the cleanup budget pays for environmental restoration, or actual cleanup.

Mr. President, some of my colleagues may be interested in learning what the fastest growing part of DOE's environmental budget actually is. I can tell them what it is not. It is not environmental restoration. In fact the fastest growing portion of DOE's cleanup

budget is the category of nuclear materials and facilities stabilization. This category represents costs to maintain closed nuclear weapons production facilities in a stable mode until their final decontamination. These costs are often referred to as landlord costs. They represent administrative costs, utility costs, and unique safety related costs that are absolutely necessary to maintain whether the facility is operating or shutdown. These costs only go off the books when the facility is finally decommissioned.

Over the last several years, as policy decisions have been made to shut down these production facilities, these landlord costs have been transferred to the Environmental Management Program from the Defense Program within DOE. DOE's fiscal year 1996 budget request illustrates this process issue vividly. The fiscal year 1996 budget request for the Environmental Management program includes \$843 million to manage former defense facilities at Savannah River, Mound, and Pinellas which no longer have a production mission. Prior to this year's budget, these costs were born by DOE's Defense programs office. Budget cutters should keep this fact in mind when examining the Environmental Management budget. The scope of work—the number of facilities, people, and inventory which must be managed—within the EM program

has expanded dramatically over the past several years.

Mr. President, as many of my colleague may know, my legislative and oversight work in environment, safety and health issues grew out of my concern about the condition of our country's nuclear weapon production complex. Ohio happens to be the location of 3 of the 17 major facilities in the United States which, over the past 45 years, produced the U.S. nuclear weapons arsenal. These 17 facilities are the ones we usually hear about when we talk about the DOE cleanup program—places like Fernald, Hanford, Savannah River, Rocky Flats, Los Alamos. However, many of my colleagues will be interested to find out that there are literally scores of sites around the country that fall under DOE's cleanup program. Most of these are associated in some way with the nuclear weapons program; however, some are associated with the nuclear navy program and others with energy research activities.

Mr. President, I ask unanimous consent that a list of the Department of Energy's cleanup sites—some 137 sites located in 34 states—be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DOE EM SITES

ST #	Location	Installation/Site	*
AK-1	Amchitka Island	Amchitka Island Test Site	
AK-2	Cape Thompson	Project Chariot	C
AZ-1	Tuba City	Tuba City	W/C
AZ-2	Monument Valley	Monument Valley	U
CA-1	Berkeley	Lawrence Berkeley Laboratory	
CA-2	Berkeley	University of California	F/C
CA-3	Livermore	Lawrence Livermore National Laboratory	
CA-3	Livermore	Sandia National Laboratories—Livermore	
CA-5	Vallejos	G E Vallejos Nuclear Center	
CA-6	Canoga Park (L.A.)	Atomics International	
CA-7	San Diego	General Atomics	
CA-8	Palo Alto	Stanford Linear Accelerator Center	
CA-9	Oxnard	Oxnard	
CA-9	Santa Susana	Santa Susana Field Laboratory	
CA-9	Santa Susana	Energy Technology Engineering Center	
CA-10	Davis	Laboratory for Energy-Related Health Research at U.C. Davis	
CA-11	Imperial County	Salton Sea Test Base	
CO-1	Grand Valley	Project Rulison Site	
CO-1	Rifle	Old Rifle	U
CO-1	Rifle	New Rifle	U
CO-2	Gunnison	Project Rio Blanco Site	
CO-2	Jefferson County	Gunnison	U
CO-3	Durango	Rocky Flats	
CO-5	Grand Junction	Durango	W/C
CO-5	Grand Junction	Grand Junction Projects Office Site	
CO-6	Maybell	Climax Mill Site	W/C
CO-7	Naturita	Maybell	U
CO-8	Slick Rock	Naturita	U
CO-8	Slick Rock	Union Carbide	U
CT-1	Seymour	Old North Continent	U
CT-2	Windsor	Seymour Specialty Wire	F/C
FL-1	St. Petersburg	Combustion Engineering Site	F
FL-1	St. Petersburg	Pinellas Plant	
FL-1	Largo	4.5 Acre Site	
HI-1	Kauai	Peak Oil Petroleum Refining Plant	
IA-1	Ames	Kauai Test Facility	
ID-1	Lowman	Ames Laboratory	
ID-2	Idaho Falls	Lowman	W/C
ID-2	Idaho Falls	Idaho National Engineering Laboratory	
IL-1	Chicago	Argonne National Laboratory—West	
IL-1	Chicago	University of Chicago	F/C
IL-2	Cook County	National Guard Armory	F/C
IL-2	Batavia	Site A/Plot M, Palos Forest Preserve	
IL-2	Lemont	Fermi National Accelerator Laboratory	
IL-3	Granite City	Argonne National Laboratory—East	
IL-4	Madison	Granite City Steel	F/C
KY-1	Hillsboro	Madison	F
KY-2	Paducah	Maxey Flats Disposal Site	
MA-1	Norton	Paducah Gaseous Diffusion Plant	
MA-2	Beverly	Shpack Landfill	F
MA-3	Indian Orchard	Ventron	F
MD-1	Curtis Bay	Chapman Valve	F
MI-1	Adrian	W.R. Grace & Co.	F
		General Motors	F

DOE EM SITES—Continued

ST #	Location	Installation/Site	*
MO-1	Kansas City	Kansas City Plant	
MO-2	Hazelwood	Latty Avenue Properties	F
MO-2	St. Charles County	Weidon Spring Site	
MO-2	St. Louis County	St. Louis Airport Vicinity Properties	F
MO-2	St. Louis County	St. Louis Airport Storage Site	F
MO-2	St. Louis	St. Louis Downtown Site	F
MS-1	Hattiesburg	Salmon Test Site	
MT-3	Butte	Western Environmental Technology Office (WETO)	
ND-1	Bowman	Bowman	U
ND-2	Belfield	Belfield	U
NE-1	Lincoln	Hallam Nuclear Power Facility	C
NJ-1	Jersey City	Kellix/Pierpont	F/C
NJ-2	Maywood	Maywood Chemical Works	F
NJ-3	Princeton	Princeton Plasma Physics Laboratory	
NJ-4	Middlesex	Middlesex Municipal Landfill	F/C
NJ-5	Middlesex	Middlesex Sampling Plant	F
NJ-5	New Brunswick	New Brunswick Laboratory	F
NJ-6	Wayne	Wayne	F
NJ-7	Deepwater	Du Pont & Company	F
NM-1	Albuquerque	South Valley Site	
NM-1	Albuquerque	Sandia National Laboratories—Albuquerque	
NM-1	Albuquerque	Inhalation Toxicology Research Institute	
NM-1	Albuquerque	Holloman Air Force Base	
NM-1	Los Lunas	Pagano Salvage Yard	
NM-2	White Sands MR	Chupadera Mesa	F/C
NM-3	Carlsbad	Project Gnome-Coach Site	
NM-3	Carlsbad	Waste Isolation Pilot Plant	
NM-4	Ambrosia Lake	Ambrosia Lake	U
NM-5	Farmington	Project Gasbuggy Site	
NM-6	Shiprock	Shiprock	U/C
NM-7	Los Alamos	Los Alamos National Laboratory	
NM-8	Los Alamos	Bayo Canyon	F/C
NM-8	Los Alamos	Acid/Pueblo Canyon	F/C
NV-1	Fallon	Project Shoal Site	
NV-2	Tonopah	Central Nevada Test Area	
NV-2	Nellis AFB	Tonopah Test Range	
NV-2	Mercury	Nevada Test Site	
NY-1	Buffalo	B&L Steel	F
NY-2	West Valley	West Valley Demonstration Project	
NY-3	Tonawanda	Seaway Industrial Park	F
NY-3	Tonawanda	Ashland Oil #1	F
NY-3	Tonawanda	Ashland Oil #2	F
NY-3	Tonawanda	Linde Air Products	F
NY-4	Lewiston	Niagara Falls Storage Site Vicinity Property	F/C
NY-5	Niagara Falls	Niagara Falls Storage Site	F/C
NY-6	Colonie	Colonie	F
NY-6	Schenectady	Knolls Atomic Power Laboratory	
NY-7	Manhattan	Baker & Williams Warehouse	F/C
NY-8	Upton, LI	Brookhaven National Laboratory	
OH-1	Columbus	Battelle Columbus Laboratories	
OH-1	Columbus	B&T Metals	F
OH-2	Fernald	Fernald Environmental Management Project	
OH-4	Ashtabula	Reactive Metals Inc./Fields Brook Site	
OH-4	Oxford	Alba Craft	F
OH-4	Fairfield	Associated Aircraft Tool & Manufacturing	F
OH-4	Hamilton	HHM Safe Site	F
OH-5	Painesville	Painesville	F
OH-6	Piqua	Piqua Nuclear Power Facility	C
OH-7	Miamisburg	Mound Plant	
OH-8	Portsmouth	Portsmouth Gaseous Diffusion Plant	
OH-9	Luckey	Luckey	F
OH-9	Toledo	Baker Brothers	F
OR-1	Lakeview	Lakeview	U/C
OR-2	Albany	Albany Metallurgical Research Center	F/C
PA-1	Aliquippa	Aliquippa Forge	F/C
PA-2	Canonsburg	Canonsburg	U/C
PA-3	Shippingport	Shippingport Atomic Power Station	C
PA-4	Springdale	C.H. Schnoor	F/C
PA-4	West Mifflin	Bettis Atomic Power Laboratory	
PR-1	Mayaguez	Center for Energy & Environmental Research	
SC-1	Aiken	Savannah River Site	
SD-1	Edgemont	Edgemont Vicinity Properties	C
TN-1	Oak Ridge	Elza Gate	F/C
TN-2	Oak Ridge	Y-12 Plant	
TN-2	Oak Ridge	Oak Ridge K-25 Site	
TN-2	Oak Ridge	Oak Ridge National Laboratory	
TX-1	Falls City	Falls City	U/C
TX-2	Amarillo	Pantex Plant	
UT-1	Green River	Green River	U/C
UT-2	Salt Lake City	Salt Lake City	U/C
UT-3	Mexican Hat	Mexican Hat	U
UT-3	Monticello	Monticello Millsite and Vicinity Properties	
WA-1	Richland	Hanford Site	
WY-1	Spook	Spook	U/C
WY-2	Riverton	Riverton	U/C

*U=UMTRA; F=FUSRAP; C=COMPLETED

Mr. GLENN. Mr. President, in the early 1980's I chaired hearings which revealed serious worker safety and health problems at DOE's uranium enrichment facility in Portsmouth, OH, as well as the Fernald uranium foundry outside of Cincinnati. These hearings were among the first public examinations of the nuclear weapon complex. Due in part to decades of secrecy and the cold war urgency to produce nuclear weapons at any cost, little atten-

tion was historically given to worker safety or the environment. After becoming chair of the Governmental Affairs Committee in 1986, I significantly increased the number of oversight hearings of this heretofore neglected program.

As problems were uncovered at Ohio's facilities, I began asking whether similar problems existed at DOE's other sites around the country, including Savannah River, Hanford, Rocky

Flats, and our national labs. Often utilizing the auditors and investigators of the General Accounting Office, the answer which all-too-often came back was, "Yes, in spades." One example shows how massive the nuclear weapons cleanup has become. In 1985, I asked GAO to estimate the cost of cleaning up DOE's facilities. Their answer was \$8-12 billion, a significant sum. By 1988, that figure had risen to \$100 billion. Now, in 1995 GAO's best

guess is over \$300 billion, with the caveat that much of the technology does not yet exist to do the job. Over the past several years, the fastest growing program within DOE has been the cleanup program. We are currently spending over \$6 billion every year to address the very real environmental problems at these sites.

However like any other government program which grows exponentially in a short time, the growth of DOE's cleanup program has resulted in waste and inefficiency. My investigations into the DOE weapon complex have focused on exposing the serious environmental safety and health problems which exist there, but also on the Department's ability to address and manage these problems efficiently. One particular problem has been DOE's contract management practices, which were all-too-often inadequate and failed to properly account for or track literally billions of dollars of taxpayer funds. Governmental Affairs Committee investigations into DOE's contracting practices have resulted in taxpayer savings in a variety of ways, from reducing the cost of drilling wells at Hanford, to controlling affiliate contracting relationships at Savannah River to implementing improved planning and management tools for estimating and tracking program costs at all sites.

I am pleased to say that the Department, under Secretary O'Leary's leadership has made a number of very real efforts to get waste and mismanagement problems under control. First and foremost Secretary O'Leary has agreed to reduce the DOE budget by \$10.6 billion over the next 5 years. Within this reduction, the cleanup program has agreed to reduce its spending by \$4.4 billion over the same timeframe. The DOE contract reform initiative and reorganization efforts also will strengthen the Department's ability to do more with less.

As the magnitude of the nuclear weapon cleanup becomes clearer, many

people are beginning to suggest that we back away from our obligation to remediate these sites, saying that it is simply too expensive. "After all," these critics say, "these sites are remote and few people live there. Aren't there more cost-effective ways we can spend taxpayer dollars?" I simply do not agree with the premise that we can back off of this cleanup effort. While it is true that many of the most contaminated sites—like Hanford and Savannah River—are remote, they are unfortunately situated near major drinking water supplies. If little is done now, it is likely that our children or grandchildren—even those living far from these sites—will have to contend with severely contaminated water. And for every site that is remotely located, the Department has sites like Rocky Flats, outside of Denver, or Fernald, outside of Cincinnati, which are located near major population centers.

I am convinced that the answer to cleaning up these facilities will not be found by putting off to future generations the responsibility of dealing with these problems. I intend to continue to exercise broad and vigorous oversight in this area during the 104th Congress.

Mr. President, I will have more to say about this program as we proceed through this year's budgeting process. I would close by encouraging my colleagues to review information which describes the Department's fiscal year 1996 cleanup budget in greater detail. I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHAT HAVE WE DONE?—ENVIRONMENTAL MANAGEMENT ACCOMPLISHMENTS, 1989-1994
Cleanup of 16 former nuclear weapons and industrial sites (FUSRAP).
Cleanup of 14 Uranium Mills Tailings Remedial Action (UMTRA) sites.
Remediation of 5,000 public and private properties contaminated with uranium tailings.
Completed 119 Remedial Actions.
100 Facilities have been decommissioned.

9 Site-Specific Advisory Boards have been established.

30.4 million square meters of soil and uranium tailings removed.

16 million pounds of scrap metal recycled.

2.4 billion gallons of ground water and 1.8 billion gallons of surface water treated.

500 tanks removed or replaced.

55,000 pounds of shrapnel and ordnance removed.

2,200 acres of land stabilized.

488,000 drum equivalent of stored waste shipped offsite.

Disposed of 50,000 m³ of low-level waste.

ENVIRONMENTAL MANAGEMENT PROGRAM

(Fiscal year 1996 Congressional Budget Request)

	Fiscal year—		Change
	1995	1996	
Waste Management	2,916.1	2,707.7	-208.4
Environmental Restorations	1,768.5	1,993.7	+225.2
Nuclear Mat. & Facilities Stabilization	838.9	1,679.7	+840.8
Technology Development	417.4	390.5	-26.9
Uranium Enrichment D&D	301.3	288.8	-12.5
Analysis, Education & Risk Mgt	84.9	157.0	+72.1
Corrective Activities	27.2	8.8	-18.4
Transportation Management	20.7	16.2	-4.5
Compliance & Program Coord	0.0	81.3	+81.3
Subtotals	6,374.0	7,323.7	+949.7
Use of Prior Year Balances	(257.5)	(300.0)	(+42.5)
SR Pension Funds	(0.0)	(37.0)	(+37.0)
D&D Fund Deposit Offsets	(133.7)	(350.0)	(+216.3)
D&D Fund Foreign Fee	(0.0)	(45.0)	(+45.0)
Totals	5,983.8	6,591.7	+608

Over 2,400 facilities will be transferred to EM from other DOE programs in 1995, adding an additional \$843 million in site management responsibilities to the FY 1996 EM budget.

In December 1995 the Savannah River Site will begin removing High-Level Waste from storage tanks and "vitrifying" it into a safer glass form at the Defense Waste Processing Facility.

A minimum of 24 new or improved technologies will be made available for transfer to private industry for implementation and 50 technologies will be pilot-, bench-, or full-scale demonstrated in FY 1996.

Remedial action has been completed on 17 of 45 Formerly Utilized Sites Remedial Action Project (FUSRAP) and on 13 of 24 Uranium Mills Tailings Remedial Action sites.

16 Remedial Actions, 78 Assessments and 12 Decontamination and Decommissioning projects will be completed in FY 1995.

FISCAL YEAR 1996 CONGRESSIONAL BUDGET—OUTYEAR PROFILES

(Dollars in millions)

	1996	1997	1998	1999	2000	Total
Budget authority						
Base	\$6,592	\$6,973	7,042	\$7,115	\$7,181	\$34,903
Savings		(700)	(1,510)	(1,597)	(1,665)	(5,472)
Budget authority	6,592	6,273	5,532	5,518	5,516	29,431
Outlays						
Base	\$6,144	\$6,686	\$6,966	\$7,070	\$7,145	\$34,011
Savings		(350)	(1,000)	(1,432)	(1,618)	(4,400)
Outlays	6,144	6,336	5,966	5,638	5,527	29,611

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair.

(The remarks of Mr. SMITH and Mr. CHAFEE pertaining to the introduction of S. 534 are located in today's RECORD

under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we had a good debate and discussion on the Kassebaum amendment earlier

with a number of our colleagues. I would just like to make some concluding comments about where I think we are in this debate and discussion.

Earlier in the course of the afternoon, I talked in some detail about the

legitimacy of the Executive order. I included in the RECORD the legal justification for the order and then summarized the policy considerations for the Executive order and responded to some of the questions that have been raised over the period of the last couple of days about whether the President exceeded his authority and responsibility in terms of issuing it.

Hopefully, for those Members who are interested, they will at least have an opportunity to read through the Attorney General's memorandum and some of the other material which I think spell out very clearly the responsibility that the President had for undertaking the Executive order, the legal justification for that order.

Just a few moments ago, I tried to put this proposal in the context of the discussions that we are having in the Senate of the United States and in the House of Representatives under the general rubric of the Contract With America. I think, quite frankly, Mr. President, it is appropriate to make these comments at this time because the amendment of the Senator from Kansas, in trying to undermine the President's authority and power, particularly the policy reasons for it. I think really helps put into sharper relief exactly what some of the public policy matters are that have been raised during the period of these past weeks and what I think the American people, particularly working families, should be very much aware of and I should think very much concerned about. I would like to take a few moments of the Senate's time this afternoon to address that broader issue.

The pending Republican amendment on permanent striker replacements is a skirmish in a much larger battle that is now unfolding in Congress in full view of the American people. Each day's developments under the new Republican majority in the Senate and House of Representatives raises increasing concern. The Republican's so-called Contract With America is being unmasked for what it is. It is not a Contract With America at all but a declaration of war on working families throughout America.

There is a fundamental hypocrisy behind many Republican positions in the current national debate. They do not mind Government stepping in with a generous helping hand for business; they think tax cuts for the rich and corporate welfare in the form of lavish Government subsidies for businesses are fine, but our Republican friends get upset when Government steps in to offer a helping hand to working families, to the elderly, to children and to those in need.

Democrats are proud to be the defenders of Social Security and Medicare for senior citizens, a fair minimum wage for workers, aid for college education, hot lunches for children in

their schools. Democrats are proud to be on the side of all these individuals and families across America struggling to make ends meet, and we are proud to oppose any Contract With America that endangers all of these worthwhile programs.

President Clinton had it right when he said the Nation wants Government to be lean not mean. But wherever we turn in Congress today, we see mean-spirited assaults on programs that help people, and I would like to discuss a few of these basic priorities today issue by issue.

We know that education is a key building block of the American dream. While college costs rise to over \$8,000 a year at many State universities and over \$20,000 a year at many private colleges, a college education is too often an impossible dream for working families. We know that students and their families are struggling hard to find the finances needed to pursue the education and the training they need.

Yet, Republicans are proposing the largest cuts in student aid in the Nation's history. The proposals in the Contract With America would slash \$20 billion from student aid over the next 5 years; an additional \$20 billion that students and working families would have to come up with from their own pockets.

The contract proposes to eliminate the interest on student loans the Government now pays while students are in school. Under current law, interest does not build up on student loans until students graduate and can start paying back their loans. Slashing this interest subsidy will save the Federal Government \$12 billion over 5 years, but at what price? By deeper indebtedness for students, as much as 20 to 50 percent deeper.

For a student who borrows the maximum amount to pay for 4 years in college, the Republicans' cut would add \$3,000 in extra interest payments. Instead of \$17,000 in loans to pay off college, the student would owe \$20,000. And that is not all. Republicans are also calling for the elimination of the campus-based grant and loan programs that help students pay their way through college. That is another \$7 billion in cuts that will hurt the Nation's students.

Republicans extol the virtue of work, yet they propose to eliminate the highly successful work-study program that enables students to work at jobs on campus and in their communities to earn part of their financial aid. And the only ones that are eligible for those are, again, working families, the sons and daughters of working families. There is a sliding scale and it gets up to maybe \$62,000, \$64,000 for three members of a family in school.

You are talking about a program that is targeted, again, to provide working families' students to be able

to gain additional resources as a result of working at jobs on campuses and in the communities as part of a financial aid package.

It is not as if the States will pick up the slack. In Massachusetts, State financial aid for students has been cut by almost a third since 1988. Tuitions and fees charged to students at the State university have doubled. If the Republican cuts go through, Massachusetts students will lose \$70 million in Federal student aid a year, more than the total amount the State spends on student aid.

Republicans claim they want to balance the budget so as not to bury the next generation in debt, but they are more than willing to bury the Nation's students in debt. In fact, Republicans are proposing at the same time to add to the deficit in order to protect the banks at the expense of students. And I want the attention of the Members on this particular issue affecting students in their own States.

Last Friday, Senator KASSEBAUM introduced a bill to cap the new Federal direct lending program for college students. That program began in 1993 under the leadership of President Clinton and Democrats in Congress but also with the support of Senator Durenberger, Senator JEFFORDS, and other Republicans. That particular program has cut college student loan fees in half and lowered interest rates on their loans. It has eliminated the huge and confusing bureaucracy that makes it difficult for students to receive their loans on time and even harder for them to pay back their loans.

Under the direct lending and current law, students will save \$2.2 billion over 5 years and taxpayers will save \$4.3 billion. But banks do not like the new program because it reduces the profits they were making at students' expense. The Republicans want to stop the direct lending in its tracks, even though stopping it will add to the deficit in the long run.

The Republican priorities are clear. The Democrats put students and education first; Republicans put the banks first, even ahead of reducing the deficit.

The economy, the Treasury and the families across America will suffer if the next generation of students have to start their working lives under a mountain of debt and cannot afford the education and training they need to be productive workers. Slamming the door of college in the face of the Nation's students is not a Contract With America, it is an insult to America.

The next issue is health care. Few things are more important to the security of working families than affordable quality health care. Few things are more important to senior citizens than Medicare. But for the new Republican majority, the tax cuts for the wealthy and the protection of corporate profits are more important than

the health care of American workers and their families and Medicare for our senior citizens.

Today, no working family is guaranteed affordable health care. Thirty million members of working families have no health insurance at all. The breadwinners in these families work hard—40 hours a week, 52 weeks a year. But all their hard work does not free them from concern about their health security. They cannot afford to buy health insurance on their own and their employers will not contribute to the cost.

Even families that have health insurance are not secure. No family can be sure that the insurance that protects them today will be there for them tomorrow when serious illness strikes. Lose your job and you can lose your coverage. Change jobs and you can lose your coverage. Your employer can decide your coverage is too expensive and drop it altogether. And your insurance company can decide you are a bad risk and cancel your current policy. More than 2 million Americans lose their health insurance every month.

The skyrocketing cost of health care is depriving workers of the wage increases they deserve. It is keeping real income stagnant, even as the economy grows and strengthens.

Last year, the Republicans drew a line in the sand against the simple and sensible idea that every employer should be expected to contribute to the costs of health insurance for their employees, even though most employers do so voluntarily today.

Last year, as their alternative the Republicans proposed reforms in the insurance market, to try to make health insurance more available. They offered subsidies to workers whose employers did not provide health insurance. But this year, this year the Republicans have backed away from even this minimalist approach. Health care is not even in the Republican contract. It is not in the agenda for the first 100 days. And the two Republican bills introduced to date provide not a single dollar to help working families afford health insurance.

The problem has not gone away. Despite the economic recovery, the number of uninsured rose by more than a million last year. Workers who still have their insurance are less secure than they were a year ago. Health care costs continue to rise at twice the rate of general inflation. But for the Republicans, now that there is no threat of new responsibilities on business, they feel no responsibility to address the needs of workers.

Families need a reliable system of health security for their retirement years as well. Older Americans are the most vulnerable to costly illnesses. The cost of health care in retirement threatens not only the security of retired workers but the security of their children and grandchildren as well,

who will contribute everything they have to keep their parents from destitution.

For three decades, Medicare has provided health security for senior citizens. But today, the security of Medicare is in danger, and the Republican program threatens to destroy it. The Republican Speaker of the House of Representatives has said that Medicare should be rethought from top to bottom and that every decision on it must be made in the light of a balanced budget. The Republican chairman of the Finance Committee has projected \$300 billion in Medicare cuts over the next 7 years. Independent estimates of the cost of the Republican contract project cuts in Medicare of an almost unthinkable 31 percent of projected program costs.

Because of current program gaps and out-of-control health care costs, the protection that Medicare provides is already inadequate. Last year, senior citizens spent an average of \$2,800 out of their pockets for health care—four times what nonelderly Americans spent.

Just 8 years ago, in 1987, senior citizens spent 15 percent of their income for medical care—and that was too much. Today, that number has soared to 23 percent—almost \$1 in every \$4 taken from limited incomes that are already stretched to pay for food, housing, heat, clothing, and other essential expenses of daily living. If the medical costs of senior citizens in nursing homes and other institutions are included, the percentages would be even higher. I say senior citizens should be paying less for medical care, not more.

The damage done by reductions of scale contemplated in the Republican contract go beyond the increase of out-of-pocket costs. They would turn senior citizens into second-class citizens in health care. They would significantly boost the already excessive insurance premiums paid by working families. They would damage key health care institutions. They would be achieved by forcing senior citizens into managed care programs and denying them the opportunity to go to the doctor and the hospital they choose.

President Clinton has taken a strong stance on this issue—no Medicare cuts unless they are part of overall health care reform that protects senior citizens, working families, and health care institutions.

Democrats support these principles, but our Republican friends take a different view. Billions of dollars in tax cuts for the wealthy, paid for by billions of dollars in Medicare cuts for senior citizens.

Other important aspects of health security are protection from unsafe and ineffective prescription drugs, reasonable access to the physicians and other health professionals, especially for those who live in rural and underserved

urban areas, and safe workplaces and a safe environment.

What is the Republican program? Hamstringing the FDA so that drug companies can have higher profits, even though the American people will have worse protection. Cut the National Health Service Corps, so that people who live in rural communities and inner cities will have to go without care when they need to see a doctor. Roll back the rules that require businesses to provide a safe workplace for employees. Undermine the environmental protections that bring clean air and clean water.

In each of these areas, the Republican prescription for health care is a healthier bottom line for special interests and the wealthy, and greater risk of illness for American families. That is the kind of cost-benefit analysis we are getting these days. It is the wrong analysis, because it looks at the wrong costs and the wrong benefits.

Yesterday, the Republican chairman of the House Ways and Means Committee outlined a 5-year tax cut proposal as part of the Republican contract. It is a lavish tax break for the rich, that will inevitably be paid for out of the pockets of working families. It is an antifamily, antiwork, antichildren tax cut, and it does not deserve to pass.

It will cost the Treasury \$700 billion over the next decade. It will drive up the deficit to levels unheard of even during the Reagan and Bush administrations.

Is it just coincidence that the total amount of the nutrition cuts recently proposed by the House Republicans—in WIC, school breakfasts, school lunches—will provide just enough to pay for the capital gains tax cut for families earning over \$100,000? This is an affront to working American families, because it takes the most from those who have the least.

The current capital gains tax cut will be cut in half; 75 percent of the tax benefit from this cut will go to those making more than \$100,000 a year—the top 9 percent of income; 50 percent of the benefit will go to the wealthiest 1 percent of the population.

The tax cut proposal also calls for accelerated depreciation deductions for business. A similar tax break was included in the Reagan tax cut in 1981. It was rightfully curtailed in the 1986 Tax Reform Act and it should not be expanded now.

The poor and the middle class have no resources for these types of investments. They would get no benefit from this provision. But it would provide \$90 billion in tax breaks for the wealthiest corporations in America.

The Republican tax cut would also repeal the alternative minimum tax which now keeps major corporations from avoiding taxes altogether. If it is repealed, it will put \$60 billion into the pockets of wealthy corporations and let many of them go entirely tax free.

In the unkindest cut of all, the Republican proposal would deny any tax relief to the lowest income families.

The original Contract With America made the \$500 tax credit for children refundable, which means the tax relief would have been available to all families including those at the lowest income levels who need help the most. By deleting the refundable features of this tax cut the Republican plan will deny \$13 billion in tax relief for these families.

Millionaires will get their tax cut in full, but to save money our Republican friends now offer no relief at all to the millions of families at the other end of the income scale. The plan makes a mockery of any sense of tax fairness and tax justice, and it must not be permitted to stand.

I can cite many other ways in which the so-called Contract With America declares war on working families and average citizens across the country. In the weeks to come we will have an opportunity in the Senate to debate all of these issues in full and I am confident that when we do, a fairer contract will be written. The real casualties of this war will be the worst provisions of the contract, not the people of America.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Utah.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HATCH. Mr. President, I do not intend to be long but I would like to say a few words about the balanced budget amendment.

Mr. President, the international financial markets and the Chairman of the Federal Reserve Board have passed judgment on America's future economic power in the wake of the Senate's failure to adopt a balanced budget amendment. Their reaction paints a bleak picture of the future of our country, and does not suggest we will leave a legacy to our children we can be proud of. I ask those colleagues who once supported this amendment and who changed their votes this year to rethink their position again in light of this judgment.

Mr. President, the balanced budget amendment vote suggested to the world that the success of President Clinton and the Senate Democratic leadership in blocking the amendment signaled the triumph of business-as-usual and a continuation of the big-spending practices of the past. The markets reacted swiftly and strongly, and, I think, justly. The dollar dropped precipitously to record low exchange rate levels against the Japanese yen and the German mark.

Fed Chairman Greenspan, in testimony before the House Budget Committee on Wednesday, attributed the precipitous fall of the dollar in large part to the failure of this body to adopt

the balanced budget amendment. The Wall Street Journal, the New York Times, and the Washington Times all reported that Chairman Greenspan agreed with those who pointed to the Senate's rejection of the balanced budget amendment—and its implication of continued fiscal irresponsibility—as the cause of the dollar's drop.

Chairman Greenspan reportedly opined that "in futures markets—an important indicator that doesn't reflect current ups and downs in the economy—the dollar didn't begin to fall significantly until the Senate rejected the balanced budget amendment. * * *" (Wall Street Journal, Mar. 9, 1995) He was quoted as saying, "[t]here was apparent concern in the international financial markets that something significant was happening to our resolve with respect to coming to grips with the balanced-budget issue." (Id.)

He further noted that to continue on the path of \$200 billion deficits—and I would add that that is precisely the path President Clinton has laid out for this country in his proposed budget—"would be unwise and probably impossible. * * * Indeed, given the weakness in the foreign exchange value of the dollar, world capital markets may be sending us just that message." (Washington Times, Mar. 9, 1995, p. 1)

In his testimony, Chairman Greenspan also pointed out the benefits of a balanced budget, which would be obtained through passage of a balanced budget amendment: a stronger dollar, lower interest rates, and a stronger economy.

Mr. President, I think the message is clear. The victory of President Clinton and a few of the Democrats who want to keep this country on a path of increasing debt and the business-as-usual spend and borrow policies was a defeat for the American economy and for the American people.

As we have said throughout the balanced budget amendment debate, the benefits of passing the amendment begin immediately and keep improving as Congress returns to a more rational fiscal regime. Failure to adopt the amendment means not just a continuation of the weakness of the past, but a worsening picture.

This Nation's fiscal freedom is at risk if we continue on President Clinton's path of irresponsible spending. If we wish to remain the power that we have been, we need to rekindle the values of thrift and responsibility in this Congress. And we should lock those values in place with a constitutional amendment to require a balanced budget.

The Senate should learn from its mistake—a mistake heralded as a serious economic mistake by world financial markets—and adopt the balanced budget amendment, and get on with balancing the budget. If we do this we

can have the benefits Alan Greenspan pointed to: a stronger dollar, lower interest rates, and a stronger economy. And I would add to those benefits a more responsive and more responsible Government. All these things can be the legacy we leave our children. The alternative legacy is not one I would be proud to leave. We must pass the balanced budget amendment.

I believe that the time is this year. So I hope our colleagues will reconsider. I hope we can pass it.

I ask unanimous consent a number of articles from the various newspapers be printed in the RECORD.

There being no objection the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 9, 1995]

FED CHAIRMAN BLAMES DEFICIT FOR DOLLAR'S FALL

GREENSPAN ALSO CITES DEFEAT OF BUDGET AMENDMENT, BACKING GOP CHARGES

(By Lucinda Harper and David Wessel)

WASHINGTON.—Federal Reserve Chairman Alan Greenspan blamed the weak dollar on a persistent U.S. government fiscal deficit and failure of Congress to pass a constitutional amendment to force a balanced budget.

Calling the dollar's fall "overdone . . . unwelcome and troublesome," Mr. Greenspan told the House Budget Committee that it "adds to potential inflation pressures in our economy."

The dollar rebounded yesterday for the first time in days. The rise, which began before Mr. Greenspan's testimony, took the dollar to 91.35 yen from 90.05 yen the day before and to 1.3940 marks from 1.3688 marks. Several European nations yesterday raised interest rates to try to boost their currencies against the German mark.

Mr. Greenspan said nothing yesterday to suggest he contemplates raising U.S. interest rates to help the dollar. Indeed, he repeatedly said the best way to help it is to reduce the budget deficit. But in his testimony, he avoided the word "ease"; his use of that word in earlier testimony, when referring to U.S. interest rates, has been cited by some analysts as one factor contributing to the weak dollar.

In his most detailed commentary since the dollar began plunging, Mr. Greenspan said the U.S. currency began to get weaker "as the economy started to give evidence of slowing down" and interest rates on one- and two-year maturities fell. Lower U.S. interest rates make the dollar less attractive to global investors.

But in futures markets—an important indicator that doesn't reflect current ups and downs of the economy—the dollar didn't begin to fall significantly until the Senate rejected the balanced-budget amendment, Mr. Greenspan said. The Fed chairman opposed the amendment, but said that with its rejection, "There was apparent concern in the international financial markets that something significant was happening to our resolve with respect to coming to grips with the balanced-budget issue."

Mr. Greenspan's analysis lent support to Republican charges that defeat of the amendment caused the dollar's collapse. "The dollar has been sliding against the yen and the mark ever since the amendment went down," House Speaker Newt Gingrich said yesterday.

Although Clinton administration officials remained publicly silent on the dollar, the

German Bundesbank—normally pleased when the mark is strong—said in a statement that the dollar's fall was exaggerated and wasn't justified by "economic fundamental factors."

The German central bank praised Treasury Secretary Robert Rubin's one public utterance on the dollar so far: that a stronger dollar is in the U.S. national interest. In a speech scheduled for this morning, Mr. Rubin is expected to elaborate on this theme, particularly on his view that U.S. support for Mexico isn't any reason for the dollar to be weak.

During some past episodes of dollar weakness in recent years, other Clinton administration officials have occasionally suggested the benefits of a weak dollar, but they now are avoiding saying anything that suggests they favor its decline.

Fed Governor Lawrence Lindsey, who has in the past made statements that hurt the dollar, wouldn't discuss it yesterday. "I don't have a yen to make a mark," he told wire-service reporters.

On the state of the economy, Mr. Greenspan reiterated that he sees "some indications that the expansion may be slowing from its torrid and unsustainable pace of 1994. . . while there are signs that spending is slowing, the jury remains out on whether that will be sufficient to contain inflation pressure." He noted slowing of the housing sector and consumer spending, but said there are "few indications of that degree of slowing" in orders for nondefense capital goods or investment in commercial buildings.

[From the Washington Times, Mar. 9, 1995]

FED CHIEF HELPS DOLLAR SOAR

GREENSPAN CITES SENATE BUDGET VOTE AS TRIGGER FOR ALL, URGES DEFICIT ACTION

(By Patrice Hill)

Federal Reserve Chairman Alan Greenspan touched off a powerful dollar rally yesterday by signaling the Fed's concern about the beleaguered currency and calling on Congress to move quickly to cut the budget deficit.

Mr. Greenspan agreed with observers who think the failure of the balanced-budget amendment last week triggered the dollar's fall to record lows against the German mark and Japanese yen because it raised questions about Washington's willingness to control spending. He stressed that it is within Congress' power to reverse the currency's decline.

"A key element in dealing with the dollar's weakness is to address our underlying fiscal imbalance convincingly," he told the House Budget Committee, which is preparing a plan to balance the budget by 2002, as the constitutional amendment would have required.

To forever rely on foreign money to finance a \$200 billion budget deficit and a \$150 billion trade deficit "would certainly be unwise and probably impossible," he said. "Indeed, given the recent weakness in the foreign exchange value of the dollar, world capital markets may be sending us just that message."

Mr. Greenspan said an all-out effort by Congress to eliminate the deficit not only would bolster the dollar, but also substantially lower interest rates and stimulate the economy.

"The productive potential of the U.S. economy will be shaped significantly by the actions of this Congress," he said, predicting a "startling" pickup in growth, more stability on financial markets and an increasing standard of living if Congress acts decisively to cut the deficit.

Mr. Greenspan's statement, combined with his assurances that the Fed is prepared to do what is necessary to deal with the "troublesome" fall of the dollar, dramatically lifted the U.S. currency against the mark and yen.

In New York trading, the dollar leaped to 1.3935 marks after hitting an all-time low of 1.3440 marks earlier yesterday in European trading. It had closed at 1.3702 marks Tuesday in New York.

The dollar sprang to 91.33 yen from the record low of 88.70 reached in European trading overnight. Its Tuesday close in New York was 90.05 yen. Stocks and bonds rallied modestly with the dollar.

While Mr. Greenspan's talk was a salve for the dollar, some traders questioned whether the gains will last unless Congress acts or the Fed boosts interest rates. Raising interest rates would bolster the dollar by making U.S. bonds more attractive to investors. Mr. Greenspan appeared to leave that possibility open yesterday.

"Greenspan is telling all these congressmen that what's happening to the dollar now is a symptom of the problem," said Dan Seto, an economist at Nikko Securities in New York. He said the Senate's balanced-budget vote was a negative for investors who thought the amendment would keep the federal government from living beyond its means.

"It's loud and clear," he said of Mr. Greenspan's message, "but, unfortunately, a lot of congressmen have their own Walkmans on, and they're hearing other music."

Several congressmen at the Budget Committee hearing accused the Fed and the Treasury of causing the currency crisis by getting involved in Mexico's financial problems and depleting the central bank's foreign exchange reserves by committing \$20 billion to prop up the Mexican peso.

Sen. Byron L. Dorgan of North Dakota, one of six Democratic senators who switched votes to block the balanced-budget amendment, brought up the peso when told about the Fed chairman's comments.

"The dollar was dropping rapidly before the Senate vote, and Greenspan knows that. He linked the dollar to the ailing peso," said Mr. Dorgan, a persistent Fed critic. "The marriage of the dollar and the peso has caused the trouble for the dollar."

Despite falling against other major currencies, the dollar has been hitting new highs against the peso. Yesterday it took 7.02 pesos to buy a dollar, near 50 percent more than it did Dec. 20, when Mexico devalued its currency.

"The dollar's problems began to mount when Mexico devalued the peso," Mr. Seto said, primarily because people wonder if the Mexican bailout leaves the Fed with enough reserves to influence movements in the dollar market, where \$1 trillion changes hands each day.

Comparing the meager reserves of most central banks to a "bowling trophy on the mantle," he said such reserves can't prop up a currency experiencing a fall like the dollar's.

Mr. Greenspan insisted yesterday that the Fed's reserves are sufficient to defend the dollar.

Another Democrat who opposed the balanced-budget measure, Sen. Dale Bumpers of Arkansas, said, "The slide of the dollar obviously shows the financial markets are deeply concerned about the deficit."

But he and other Democrats said a constitutional amendment is not the solution.

They said they are willing to work with Republicans right away on a plan to balance

the budget with the usual budget-writing procedures.

"We're dead serious," said Sen. Wendell H. Ford, Kentucky Democrat and another of the vote-switchers on the amendment.

"There's a difference between posing and lifting," Mr. Dorgan said. Pointing to his vote for President Clinton's \$500 billion deficit-reduction plan in 1993, he said, "I'm perfectly willing to cast that kind of vote again."

Sen. Paul Simon, Illinois Democrat and author of the proposed constitutional amendment, called on other Democrats to reconsider their votes and halt the slide of the dollar.

"When the balanced-budget amendment went down," House Speaker Newt Gingrich said, "that was a signal to the world money markets that the United States is not going to be serious about balancing its budget."

While "the decay of the dollar as a reserve currency for the world is not a new thing," the Georgia Republican said, borrowing at the rate of \$200 billion a year "implies a level of inflation and a level of decay of the currency that is almost Mexican in proportions."

The PRESIDING OFFICER. The Senator from Washington is recognized.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 331

Mrs. MURRAY. Mr. President, I rise today in strong opposition to the amendment proposed by my colleague from Kansas.

I am most concerned with those that question the administration's authority to issue this Executive order. As the Federal Government's chief executive officer, the President has the responsibility by law to assure that taxpayers receive the goods and services they require from Federal contractors. These contractors must maintain stable and productive labor-management relationships if they are going to produce the products our Nation must depend upon.

The Executive order advances cooperative and stable labor-management relations, a central component of this administration's workplace agenda. The use of—or the threat to use—permanent replacement workers destroys the cooperative environment that this relationship must maintain.

The Executive order represents a lawful exercise of Presidential authority. The Federal Procurement Act, enacted by Congress in 1949, expressly authorizes the President to prescribe such policies and directives, not inconsistent with the provisions of this act, as he shall deem necessary to effectuate the provisions of said act.

Presidents since Franklin Roosevelt have issued Executive orders addressing the conduct of firms with which the Federal Government does business. Those orders to be challenged have been upheld.

In 1941, President Roosevelt issued an Executive order requiring defense contractors to refrain from racial discrimination. In 1951, after enactment of the Procurement Act, President Truman issued an Executive order extending the requirement to all Federal contractors. When both orders were issued, such discrimination was not unlawful and, indeed, Congress had declined to enact an antidiscrimination law proposed by President Truman.

In 1964, President Johnson issued an Executive order prohibiting Federal contractors from discriminating on the basis of age. At the time, Federal law permitted such age discrimination. The Civil Rights Act of 1964 merely directed the President to study the issue.

In 1969, the Nixon administration expanded the antidiscrimination Executive order to encompass a requirement that all Federal contractors adopt affirmative action programs. This Executive order was upheld by the United States Court of Appeals for the Third Circuit.

In 1978, President Carter issued an Executive order requiring all federal contractors to comply with certain guidelines limiting the amount of wage increases. The D.C. Circuit Court upheld President Carter's Executive order.

Finally, in 1992 President Bush issued an Executive order requiring unionized Federal contractors to notify their unionized employees of their right to refuse to pay union dues. The National Labor Relations Act contains no such requirement and legislation proposing this in the 101st Congress was not passed.

The economical and efficient administration and completion of Federal Government contracts requires a stable and productive labor-management environment. Strikes involving permanent replacements last seven times longer than strikes that do not involve permanent replacements.

Mr. President, my personal interest in this amendment is its impact on the most vulnerable and fastest growing segment of our work force—American women.

Over the last decade, women have assumed ever greater economic and family caretaking responsibilities. Everyone in this country should be unsettled by the fact that women and children are most likely to fall deeper into poverty and homelessness. One of three families headed by a woman lives to or below the poverty line: Nearly 70 percent of all working women earned less than \$20,000 a year, and 40 percent earned less than \$10,000 annually. These workers need the ability to raise their standard of living in order to break the cycle of poverty and welfare dependence which many of them endure.

These women understand that they cannot bargain effectively unless they

are assured that they do not risk losing their jobs permanently. They understand the serious implications of a strike. They understand, as I do, the fear of being one paycheck away from economic disaster.

Most of us have home mortgages, car payments, educational and medical needs for ourselves and our families. America's workers know striking is the option of last resort. This action is never taken lightly.

I urge my colleagues to maintain the delicate balance of collective bargaining. This Executive order shows that this great society values the individual, that it cares about women, and it recognizes those that built this Nation. Let us defeat this amendment and prove to America that Government does respect the needs of ordinary working people.

I thank the President. I yield the floor.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the appointment of the following Senators as members of the Senate Arms Control Observer Group: The Senator from Rhode Island [Mr. CHAFFEE], the Senator from Virginia [Mr. WARNER], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from New Hampshire [Mr. SMITH], the Senator from Maine [Ms. SNOWE], and the Senator from Arizona [Mr. KYL].

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. GREGG. Mr. President, I send a motion to invoke cloture to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Kassebaum amendment No. 331 to the committee amendment to H.R. 889, the supplemental appropriations bill.

Trent Lott, Pete V. Domenici, Bob Packwood, Mark Hatfield, Bob Smith, Slade Gorton, Connie Mack, Judd Gregg, Bob

Dole, Thad Cochran, Ted Stevens, Frank H. Murkowski, Don Nickles, John McCain, Phil Gramm, Nancy Landon Kassebaum.

MORNING BUSINESS

THE BALANCED BUDGET AMENDMENT—AN ISSUE OF PRINCIPLE

Mr. DORGAN. Mr. President, during the past several weeks I have been contacted on the subject of the constitutional amendment to balance the budget by nearly 10,000 Americans—most, but not all of them, North Dakotans. I know people felt strongly on all sides of this issue. I respect these different viewpoints, and I appreciate the opportunity to give my colleagues some information and background about why I voted as I did.

And I want to start by saying simply this: I have an unwavering commitment to balancing this Nation's budget, and that commitment is a long-standing one—dating back to the first vote I cast in favor of a constitutional amendment a dozen years ago, in 1982.

That was during my first term in Congress. Since that time I have voted for balanced budget amendments again and again. I voted "yes" in 1990 and in 1992, after the huge deficits created during the 1980's and early 1990's caused the Federal debt to explode to \$4 trillion.

Last year I voted for it yet again. But I cast that vote with the firm assurance from the leading proponents of the amendment that Social Security trust funds would not be used to balance the budget.

This year in the Senate we cast two votes on constitutional amendments. I voted for the earlier of the two, Senator FEINSTEIN's substitute constitutional amendment to balance the budget. It was identical in every respect to the main constitutional amendment proposal offered by Senators HATCH and SIMON except for one important difference. It included a provision prohibiting use of the Social Security trust fund to balance the Federal budget. That proposal failed.

During the 2 days following that vote, I was involved in negotiations to try to get the sponsors of the Hatch-Simon amendment to modify their proposal so it would not result in raiding Social Security trust funds to balance the budget. Our negotiations were ultimately unsuccessful, and I therefore cast a "no" vote on that amendment.

The issue for me is one of principle—not politics. I felt it was important to stand up and fight for that principle, and that is what I did. I know the popular thing to do would have been to vote for this constitutional amendment. But if we are going to change the Constitution then we need to do that the right way. And in my mind, protecting the

Social Security trust fund is the right way.

We collect Social Security taxes to fund the Social Security system with a dedicated tax out of the paychecks of workers. It is supposed to go into a trust fund. Those who would use that trust fund to balance the Federal budget, in my judgment, are involved in dishonest budgeting. And yet, that's exactly what the constitutional amendment would have done.

I know proponents protested publicly they had no intention of doing that, but in our private negotiations they admitted they could not balance the budget without Social Security trust funds. In fact, in private they said they wanted to use those funds for the next 13 years and would stop after that point. That is not honest budgeting.

I know the Federal deficit is a crippling problem for this country. So I still hope we will be able to reach an agreement on the Social Security issue, and if we do I will vote for a constitutional amendment to balance the budget at some point in the coming months.

But we should understand that changing the Constitution does not change the budget deficit. That has to be done and it can be done during the regular budget and appropriations process. And I pledge to work as hard as I can—to fight in every way I can—to reduce this deficit.

This week I proposed a budget process that would require a balanced budget by the year 2000 without raiding the Social Security trust fund. I intend to work hard to cut spending to accomplish that.

I want this country to have a balanced budget and I will work hard toward that goal.

BILLY'S RESTAURANT CELEBRATES ITS 125TH ANNIVERSARY

Mr. MOYNIHAN. Mr. President, 125 years ago this March 13, the incomparable Billy's restaurant in New York City opened its doors for the first time. Billy's is known as "New York's oldest family-owned restaurant," but it is much more than that. It is an institution in New York, a regal old establishment that has catered to coal-yard workers, lawyers, politicians, actors and actresses, even a princess on occasion.

Billy's is a special place to my wife Elizabeth and me; we dined there often during our courtship, back when Billy's occupied a corner near 56th Street and First Avenue. Billy's has moved a few blocks south since then, but still has its original mahogany bar, gaslight fixtures, and those red-check tablecloths.

A fine article in the March 9, 1995, edition of "Our Town" details the history of Billy's restaurant. Mr. President, a history that mirrors a great deal of the history of New York. Billy's

125th anniversary celebration begins on Monday, and I simply wish to congratulate Joan Condron Borkowski, the third generation proprietor of this venerable old establishment.

Mr. President, I ask unanimous consent that the article from the March 9, 1995 edition of "Our Town" be printed in the RECORD, and I commend it to the attention of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Our Town, Mar. 9, 1995]

FAMILY RECIPE

(By Nelson Williams Jr.)

It's seven o'clock on a Monday night and Billy's is bustling. The bartenders are mixing martinis for businessmen flanked by briefcases at the bar, and waiters in red jackets and bow ties maneuver through tables toting plates of thick steaks and chops. There's no music, just the convivial rumble of conversation coming from patrons in the dining rooms dotted with red checked tablecloths.

It could be 1895 or 1995—it just so happens it's the latter. Yet if restaurant founder Michael "Mickey" Condron walked through the swinging double doors up front this evening, he'd immediately recognize the place.

Believe it or not, Billy's hasn't changed much in more than a century. The gaslight saloon has moved twice—once, in 1880, from its initial location at First Avenue near 56th Street to the southeast corner of the same block; and 29 years ago, when its Sutton Place building came down. Now at 948 First Avenue, between 52nd and 53rd streets, Billy's is less than five blocks from its first location and still boasts its original, hand carved mahogany bar, gaslight fixtures, six-handled ale pump, and walk-in cooler.

This week, New York's oldest family owned restaurant turns 125 years old. Stop by from March 12-18, or anytime for that matter, and third-generation owner Joan Condron Borkowski will give you a hug and lead you past old photos of New York dating to 1860 on the way to a table. While seating you, she'll likely tell a tale or two about Billy's the East Side watering hole her great-grandfather founded in 1870.

Mickey and Bridget Condron were just over from Cork, Ireland, then and catered to the thirsts of coal-yard workers and drivers from the local breweries. They wouldn't serve women or mix drinks, but all the food you could put away was free as long as you kept emptying your glass. As was the custom at such Old World pubs, the floor was covered in sawdust to soak up the spilled suds, and buggies rolled right to the front door of the Upper East Side saloon.

"Fifty-sixth Street was the end of civilization" in those days, says Borkowski, 50, who recalls "dancing on the bar" when she was three years old.

In the beginning, before the turn of the century, the saloon had no name, but everyone called it "Mickey's," after the round-faced man behind the bar. After they'd been open a decade, Mickey got it in his head that a restaurant should be on a corner and talked the grocer at the end of the block into swapping shops. He brought his son, William, aboard in 1902.

With William came his wife, Clara, a squat mountain of a woman who stood just four-foot two yet strained the scales at 450 pounds. Routinely stationed at a tale in the center of the main dining room she was referred to simply as "Mrs. Billy."

During the First World War, the story goes, a general was waiting at the bar for a seat when Mrs. Billy sidled up to him and barked, "Hey, sergeant, your table's ready!" Perhaps because of her considerable girth—or because the military man knew he was outranked—the general didn't say a word while being relocated, "She didn't know what all the stripes meant," chuckles Borkowski.

William Jr. and his wife, Mildred, had joined the business by this time and when Prohibition was repealed in 1933, State liquor laws required that each drinking establishment be registered under a formal name.

Thus Billy's was born—and began to thrive, building upon its neighborhood, working-man core to include among its clientele some of New York's most notable businessmen, politicians, writers and celebrities. Even today, regulars include Henry Kissinger, Bill Blass and William F. Buckley Jr. Regardless of clout, Billy Jr. served everyone conversation and drinks from behind the bar while "playing the piano"—a euphemism he used for running the register.

After discouraging his college educated daughter from working at the restaurant—saying it was "no place for a woman"—he hired her as a waitress. "He didn't like juggling the tables and say I could do it," Borkowski says.

She learned grace under fire the day in the late '60s when a First Avenue ticker-tape parade for astronaut John Glenn resulted in an overflowing house—she was the sole waitress on duty. Glenn himself didn't dine in Billy's that day, but Borkowski remembers when Grace Kelly did after returning to the States for her father's funeral. "Everybody felt you should bow to her," recalls Borkowski, who took over full time for her late father in 1988.

When Princess Grace asked for a hamburger with grilled onions, her brother's jaw dropped in amazement. The former film star shrugged off his objection, insisting that "the Prince won't let me have one at Monaco, so I'll have it here!"

During regular visits to Billy's, Marilyn Monroe had a special table in the back. Once, when her mink stole fell to the floor, busboys and waiters jockeyed to replace it around her shoulders. "Don't worry about it," Borkowski recalls the actress giggling, "I've got seven more like this one at home."

Billy's itself made a cameo appearance in the blockbuster Robert Redford-Barbra Streisand movie, "The Way We Were," providing the setting for a lengthy scene that appeared in Alan Laurents' novel of the same name. "Most of it ended up on the editing-room floor," says Borkowski sadly, "All you see is a red checked tablecloth."

In a "Philadelphia Inquirer" article, actress Helen Hayes once called Billy's her favorite restaurant in the world, according to the owner. Still, it's the everyday folks who have made Billy's an East Side Institution.

"It's a time capsule," says regular Leo Yockin, who dines out six nights a week—at least one of those evenings at Billy's. "The only thing I've seen change in the last 10 years is that [the maitre d'] doesn't wear a red jacket anymore."

If the attire's slightly altered, the faces are the same. "The staff hasn't changed since I've been coming here," says one customer, "and I first ate here 20 years ago."

Hostess Hermey O'Sullivan has been greeting and seating people at Billy's for 39 years. Waiters Joe Donadie and Gus Smolich have been scribbling orders for 32 and 27 years, respectively. "The customers have kept me here," says Donadie, "It's almost like a private club."

The head broiler man, Ramon "R.C." Diaz, started as a dishwasher two decades ago before graduating to the kitchen's top spot. Night bartender Sal D'Ambrosio has been pouring drinks for 15 years.

"They're still calling me the new guy," says waiter Ivan Sladen, "and I've been here eight years."

The king of all Billy's career employees, though, has been Alex Dombrowski, who the current Mrs. Billy says was "like a brother to my father." After the war, during which Dombrowski was shot in the head and leg, Billy Jr. made good on a promise of providing his buddy with a job. Before his death in the 1980s, Dombrowski put in 44 years at the eatery, working his way up from hoisting the basement dumbwaiter to serving as manager.

"If I hire anybody as a waiter or waitress, they're not just technicians," says Borkowski, who lives with her mother, Mildred, and orders meals for them nightly from Billy's. "I look for heart along with technique. They have to really care about whether diners are having a good time."

That, by all accounts, is the key to Billy's longevity. "There are cheaper places in town," explains longtime customer Alvin Levine, "but no one pays attention to quality and service like Billy's."

Borkowski, who says she learned about taking care of customers from her parents, reveals the family's secret recipe for success: "Good quality food, good atmosphere, good service, and a reasonable price—if you don't have those four ingredients," says Borkowski, "you won't succeed. You could serve the best meal in town, but if you throw it at the customer, they won't be back."

Customers—and their children and grandchildren—have been coming to Billy's for steaks and seafood for more years than any other family-owned restaurant in the city (Barbetta was founded in 1906, and Grotta Azzurra Inn came two years later.) Bridging generations, Billy's has endured four wars, two stockmarket crashes, Prohibition (during which they continued to sell beer), 26 presidents and 15,625 days, as one customer recently calculated between courses.

"It's not an easy life—you have to want it," says Borkowski. "You're married to it. But the customers keep you going. We share in their celebrations and their sorrows."

From Sunday to next Saturday, Billy's invited old and new customers alike to share in its 125th anniversary celebration. Borkowski and her 24-year old daughter, Susan, who recently received a communications degree yet often puts in an appearance as the restaurant's fourth-generation heir, encourage diners to dress in late 19th Century costumes and eat to the sounds of Victorian music.

"We can't do what we originally did—give away all the food you could eat with drinks," says Borkowski. "But with any entree, you get a free cocktail."

Also, at the bar, your first beverage will be regular price and the second will go for its long ago rate—five cents for beer and 95 cents for liquor.

Maybe they'll even throw sawdust on the floor.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Agriculture, Nutrition, and Forestry.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1058. An act to reform Federal securities litigation, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1058. An act to reform Federal securities litigation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES READ THE FIRST TIME

The following bill, previously received from the House of Representatives for concurrence, was read the first time:

H.R. 988. An act to reform the Federal civil justice system.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-493. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-8 adopted by the Council on February 7, 1995; to the Committee on Governmental Affairs.

EC-494. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-9 adopted by the Council on February 7, 1995; to the Committee on Governmental Affairs.

EC-495. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-10 adopted by the Council on February 7, 1995; to the Committee on Governmental Affairs.

EC-496. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-11 adopted by the Council on February 7, 1995; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. MACK, Mr. LOTT, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. HATCH, and Mr. GRASSLEY):

S. 529. A bill to provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free Trade Agreement (NAFTA) to Caribbean Basin beneficiary countries; to the Committee on Finance.

By Mr. GREGG:

S. 530. A bill to amend the Fair Labor Standards Act of 1938 to permit State and local government workers to perform volunteer services for their employer without requiring the employer to pay overtime compensation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 531. A bill to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes; to the Committee on the Judiciary.

S. 532. A bill to clarify the rules governing venue, and for other purposes; to the Committee on the Judiciary.

S. 533. A bill to clarify the rules governing removal of cases to Federal court, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mr. CHAFFEE):

S. 534. A bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 535. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of 2 vessels named GALLANT LADY, subject to certain conditions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 536. A bill to authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes; to the Committee on Energy and Natural Resources.

S. 537. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD:

S. 538. A bill to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN:

S. 539. A bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. DEWINE, and Mr. LEVIN):

S. 540. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to conduct at least 3 demonstration projects involving promising technologies

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

and practices to remedy contaminated sediments in the Great Lakes System and to authorize the Administrator to provide technical information and assistance on technologies and practices for remediation of contaminated sediments, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself, Mr. DEWINE, Mr. LEVIN, and Mr. FEINGOLD):

S. 541. A bill to amend the Federal Water Pollution Control Act to coordinate and promote Great Lakes activities, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 87. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. MACK, Mr. LOTT, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. HATCH, and Mr. GRASSLEY):

S. 529. A bill to provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free-Trade Agreement [NAFTA] to Caribbean Basin beneficiary countries; to the Committee on Finance.

THE CARIBBEAN BASIN TRADE SECURITY ACT

Mr. GRAHAM. Mr. President, today with my colleagues Senators MACK, LOTT, BRADLEY, MOSELEY-BRAUN, HATCH, and GRASSLEY, I am introducing the Caribbean Basin Trade Security Act, a bill which will improve the economic and political security of the nations of the Caribbean Basin and the United States of America.

In the last decade, the United States has supported and encouraged the extension of democracy in the Caribbean and Central America through enhanced trade and investment. Today, democracy rules in all of the nations of the Caribbean Basin, with the notable exception of Cuba. This year alone, eight nations in the region are holding free elections.

For many nations political stability is by no means guaranteed. As we saw in the painful lesson of Haiti, economic and political instability in the Caribbean region can have tragic consequences for the people and enormous costs to the United States.

It is of vital interest to America to see the Caribbean Basin grow economically. Continued economic expansion will help maintain political stability in the region. By improving economic conditions, we can deter illegal immigration, which taxes our resources and

hurts those nations which lose some of their youngest and brightest citizens. Economic stability in the Caribbean Basin strengthens our defense against the trafficking of illegal drugs. An economically stable Caribbean Basin is a rich expanding market for United States goods.

Yet at a time when economic growth is increasingly critical to the region, members of the Caribbean Basin Initiative [CBI] have faced a challenging climatic change in the area of trade. Since the implementation of the North American Free-Trade Agreement [NAFTA], lowered tariffs on Mexican imports have left the Caribbean Basin at a competitive disadvantage to Mexico. As an example, apparel assembly has been the most rapidly expanding job generator in the CBI region. Over 77 percent of Central American and Caribbean textile and apparel exports to the United States are assembled, in whole or in part, from U.S. components. For an apparel item produced in a CBI country with materials from the United States, a 20-percent duty is charged on the value added by the off-shore assembly. Under NAFTA, this same item can be imported from Mexico duty-free.

As a result of this disparity, the growth in apparel imports from Caribbean Basin nations has slowed markedly. There has been a virtual halt in new investment in the apparel sector in the CBI countries and the closing of over 100 plants during the last year alone, at an estimated loss of 15,000 jobs. Before NAFTA, the growth rates for apparel imports from Mexico and CBI nations were roughly equivalent at 25 percent. But by 1994, the CBI growth rate dropped to 14.6 percent, while Mexico's surged to 48.8 percent.

All signs indicate that this inequality will continue to expand if parity is not granted to the CBI nations. With the recent devaluation of the Mexican peso, labor and production costs in Mexico have decreased, and as a result, apparel companies have an added incentive to close shop in CBI nations and relocate to Mexico.

As past Caribbean trade agreements have shown, the United States stands to be a the chief beneficiary of lowering trade barriers between the Caribbean Basin and the United States. The United States' trade balance with Caribbean Basin countries shifted dramatically following the implementation of the 1983 Caribbean Basin Initiative, from a deficit of \$700 million in 1985. This has grown to a surplus of \$2 billion in 1993. From a \$700 million deficit to a \$2 billion surplus on a per capita basis, our surplus with the Caribbean has consistently outpaced our surplus with any other region of the world.

This bill covers those manufactured products for which Mexico was granted preferential tariff levels, such as textiles and apparel. Currently, a large portion of U.S. textile and apparel im-

ports are produced in the Far East, where few U.S. materials are used in the production process. U.S. manufacturers and workers stand to benefit from increased production of these items in the Caribbean Basin; new facilities will be more likely to utilize American materials, components, and machinery than does production in the Pacific rim. The American Apparel Manufacturers Association estimates that 15 jobs are created in the United States for every 100 apparel jobs created in CBI production facilities which use U.S. materials.

Mr. President, at the Summit of the Americas in Miami this past December, Vice President GORE reiterated the administration's commitment to the realization of hemisphericwide free trade. The administration supports the goal of bringing CBI nations into NAFTA-type free-trade agreements. The Caribbean Trade Security Act which we introduce today paves the way for the gradual association of the CBI nations into a closer bilateral or multilateral trade agreement with the United States. This legislation calls for a 6-year program after which the CBI nations will be allowed the opportunity to negotiate accession to NAFTA or to enter into independent free-trade agreements with the United States. The U.S. Trade Representative's office would make an assessment of the reforms made in each of the beneficiary countries and of the ability of each country to fulfill the obligations of the NAFTA. This checklist would include, among many criteria, the extent to which a country's markets are accessible, progress on macroeconomic reforms, and the protection of intellectual property rights.

Mr. President, there is no region in the world with which the United States has a stronger and more mutually beneficial relationship than with our Caribbean and Central American neighbors. This bill will enhance our trading relationship with our neighbors and will strongly benefit the United States. I urge my colleagues in the Senate to consider and support this legislation as a demonstration of our commitment to encouraging economic stability and the principles of free markets and free enterprise. From those, the principles of democratic government and personal freedom will continue to strengthen.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean Basin Trade Security Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the Caribbean Basin Economic Recovery Act represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin;

(2) the economic security of the countries in the Caribbean Basin is potentially threatened by the diversion of investment to Mexico as a result of the North American Free Trade Agreement;

(3) to preserve the United States commitment to Caribbean Basin beneficiary countries and to help further their economic development, it is necessary to offer temporary benefits equivalent to the trade treatment accorded to products of NAFTA members;

(4) offering NAFTA equivalent benefits to Caribbean Basin beneficiary countries, pending their eventual accession to the NAFTA, will promote the growth of free enterprise and economic opportunity in the region, and thereby enhance the national security interests of the United States; and

(5) increased trade and economic activity between the United States and Caribbean Basin beneficiary countries will create expanding export opportunities for United States businesses and workers.

(b) **POLICY.**—It is therefore the policy of the United States to offer to the products of Caribbean Basin beneficiary countries tariff and quota treatment equivalent to that accorded to products of NAFTA countries, and to seek the accession of these beneficiary countries to the NAFTA at the earliest possible date, with the goal of achieving full participation in the NAFTA by all beneficiary countries by not later than January 1, 2005.

SEC. 3. DEFINITIONS.

As used in this title:

(1) **BENEFICIARY COUNTRY.**—The term "beneficiary country" means a beneficiary country as defined in section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) **NAFTA.**—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(3) **TRADE REPRESENTATIVE.**—The term "Trade Representative" means the United States Trade Representative.

(4) **WTO AND WTO MEMBER.**—The terms "WTO" and "WTO member" have the meanings given such terms in section 2 of the Uruguay Round Agreements Act.

TITLE I—RELATIONSHIP OF NAFTA IMPLEMENTATION TO THE OPERATION OF THE CARIBBEAN BASIN INITIATIVE

SEC. 101. TEMPORARY PROVISIONS TO PROVIDE NAFTA PARITY TO BENEFICIARY COUNTRY ECONOMIES.

(a) **TEMPORARY PROVISIONS.**—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

"(b) **IMPORT-SENSITIVE ARTICLES.**—

"(1) **IN GENERAL.**—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

"(A) textile and apparel articles which are subject to textile agreements;

"(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

"(C) tuna, prepared or preserved in any manner, in airtight containers;

"(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

"(E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

"(F) articles to which reduced rates of duty apply under subsection (h).

"(2) **NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.**—

"(A) **EQUIVALENT TARIFF AND QUOTA TREATMENT.**—During the transition period—

"(1) the tariff treatment accorded at any time to any textile or apparel article that originates in the territory of a beneficiary country shall be identical to the tariff treatment that is accorded during such time under section 2 of the Annex to a like article that originates in the territory of Mexico and is imported into the United States;

"(1i) duty-free treatment under this title shall apply to any textile or apparel article of a beneficiary country that is imported into the United States and that—

"(I) meets the same requirements (other than assembly in Mexico) as those specified in Appendix 2.4 of the Annex (relating to goods assembled from fabric wholly formed and cut in the United States) for the duty free entry of a like article assembled in Mexico, or

"(II) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country; and

"(1ii) no quantitative restriction or consultation level may be applied to the importation into the United States of any textile or apparel article that—

"(I) originates in the territory of a beneficiary country,

"(II) meets the same requirements (other than assembly in Mexico) as those specified in Appendix 3.1.B.10 of the Annex (relating to goods assembled from fabric wholly formed and cut in the United States) for the exemption of a like article assembled in Mexico from United States quantitative restrictions and consultation levels, or

"(III) qualifies for duty-free treatment under clause (1i)(II).

"(B) **NAFTA TRANSITION PERIOD TREATMENT OF NONORIGINATING TEXTILE AND APPAREL ARTICLES.**—

"(1) **PREFERENTIAL TARIFF TREATMENT.**—Subject to clause (1i), the United States Trade Representative may place in effect at any time during the transition period with respect to any textile or apparel article that—

"(I) is a product of a beneficiary country, but

"(II) does not qualify as a good that originates in the territory of that country,

tariff treatment that is identical to the preferential tariff treatment that is accorded during such time under Appendix 6.B of the Annex to a like article that is a product of Mexico and imported into the United States.

"(2) **PRIOR CONSULTATION.**—The United States Trade Representative may implement the preferential tariff treatment described in clause (1) only after consultation with representatives of the United States textile and apparel industry and other interested parties regarding—

"(I) the specific articles to which such treatment will be extended,

"(II) the annual quantity levels to be applied under such treatment and any adjustment to such levels,

"(III) the allocation of such annual quantities among the beneficiary countries that export the articles concerned to the United States, and

"(IV) any other applicable provision.

"(3) **ADJUSTMENT OF CERTAIN BILATERAL TEXTILE AGREEMENTS.**—The United States Trade Representative shall undertake negotiations for purposes of seeking appropriate reductions in the quantities of textile and apparel articles that are permitted to be imported into the United States under bilateral agreements with beneficiary countries in order to reflect the quantities of textile and apparel articles of each respective country that are exempt from quota treatment by reason of paragraph (2)(A)(1ii).

"(C) **HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.**—For purposes of subparagraph (A), the United States Trade Representative shall consult with representatives of the beneficiary country for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

"(D) **BILATERAL EMERGENCY ACTIONS.**—The President may take—

"(1) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article that is a product of Mexico; or

"(1i) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article described in subparagraph (B)(i) (I) and (II) if the importation of such article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article that is a product of Mexico.

"(3) **NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.**—

"(A) **EQUIVALENT TARIFF TREATMENT.**—

"(1) **IN GENERAL.**—Subject to clause (1i), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that originates in the territory of a beneficiary country shall be identical to the tariff treatment that is accorded during such time under Annex 302.2 of the NAFTA to a like article that originates in the territory of Mexico and is imported into the United States. Such articles shall be subject to the provisions for emergency action under chapter 8 of part two of the NAFTA to the same extent as if such articles were imported from Mexico.

"(1i) **EXCEPTION.**—Clause (1) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

"(B) **RELATIONSHIP TO SUBSECTION (h) DUTY REDUCTIONS.**—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(1) in regard to such period) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

"(4) **CUSTOMS PROCEDURES.**—The provisions of chapter 5 of part two of the NAFTA regarding customs procedures apply to importations of articles from beneficiary countries under paragraphs (2) and (3).

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'the Annex' means Annex 300-B of the NAFTA.

"(B) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

"(C) The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

"(D) The term 'transition period' means, with respect to a beneficiary country, the period that begins on the date of the enactment of the Caribbean Basin Trade Security Act and ends on the earlier of—

"(i) the date that is the 6th anniversary of such date of enactment; or

"(ii) the date on which—

"(I) the beneficiary country accedes to the NAFTA, or

"(II) there enters into force with respect to the United States and the beneficiary country a free trade agreement comparable to the NAFTA that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act.

"(E) An article shall be treated as having originated in the territory of a beneficiary country if the article meets the rules of origin for a good set forth in chapter 4 of part two of the NAFTA or in Appendix 6.A of the Annex. In applying such chapter 4 or Appendix 6.A with respect to a beneficiary country for purposes of this subsection, no countries other than the United States and beneficiary countries may be treated as being Parties to the NAFTA."

(b) CONFORMING AMENDMENTS.—The Caribbean Basin Economic Recovery Act is amended—

(1) by amending section 212(e)(1)(B) to read as follows:

"(B) withdraw, suspend, or limit the application of the duty-free treatment under this subtitle, and the tariff and preferential tariff treatment under section 213(b) (2) and (3), to any article of any country."; and

(2) by inserting "and except as provided in section 213(b) (2) and (3)," after "Tax Reform Act of 1986," in section 213(a)(1).

SEC. 102. EFFECT OF NAFTA ON SUGAR IMPORTS FROM BENEFICIARY COUNTRIES.

The President shall monitor the effects, if any, that the implementation of the NAFTA has on the access of beneficiary countries under the Caribbean Basin Economic Recovery Act to the United States market for sugars, syrups, and molasses. If the President considers that the implementation of the NAFTA is affecting, or will likely affect, in an adverse manner the access of such countries to the United States market, the President shall promptly—

(1) take such actions, after consulting with interested parties and with the appropriate committees of the House of Representatives and the Senate, or

(2) propose to the Congress such legislative actions,

as may be necessary or appropriate to ameliorate such adverse effect.

SEC. 103. DUTY-FREE TREATMENT FOR CERTAIN BEVERAGES MADE WITH CARIBBEAN RUM.

Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(1) in paragraph (5), by striking "chapter" and inserting "title"; and

(2) by adding at the end the following new paragraph:

"(6) Notwithstanding paragraph (1), the duty-free treatment provided under this title shall apply to liqueurs and spirituous beverages produced in the territory of Canada from rum if—

"(A) such rum is the growth, product, or manufacture of a beneficiary country or of the Virgin Islands of the United States;

"(B) such rum is imported directly from a beneficiary country or the Virgin Islands of the United States into the territory of Canada, and such liqueurs and spirituous beverages are imported directly from the territory of Canada into the customs territory of the United States;

"(C) when imported into the customs territory of the United States, such liqueurs and spirituous beverages are classified in subheading 2208.90 or 2208.40 of the HTS; and

"(D) such rum accounts for at least 90 percent by volume of the alcoholic content of such liqueurs and spirituous beverages."

TITLE II—RELATED PROVISIONS

SEC. 201. MEETINGS OF TRADE MINISTERS AND USTR.

(a) SCHEDULE OF MEETINGS.—The President shall take the necessary steps to convene a meeting with the trade ministers of the beneficiary countries in order to establish a schedule of regular meetings, to commence as soon as is practicable, of the trade ministers and the Trade Representative, for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the meetings scheduled under subsection (a) is to reach agreement between the United States and beneficiary countries on the likely timing and procedures for initiating negotiations for beneficiary countries to accede to the NAFTA, or to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA and would make substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)).

SEC. 202. REPORT ON ECONOMIC DEVELOPMENTS AND MARKET ORIENTED REFORMS IN THE CARIBBEAN.

(a) IN GENERAL.—The Trade Representative shall make an assessment of the economic development efforts and market oriented reforms in each beneficiary country and the ability of each such country, on the basis of such efforts and reforms, to undertake the obligations of the NAFTA. The Trade Representative shall, not later than July 1, 1996, submit to the President and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on that assessment.

(b) ACCESSION TO NAFTA.—

(1) ABILITY OF COUNTRIES TO IMPLEMENT NAFTA.—The Trade Representative shall include in the report under subsection (a) a discussion of possible timetables and procedures pursuant to which beneficiary countries can complete the economic reforms necessary to enable them to negotiate accession to the NAFTA. The Trade Representative shall also include an assessment of the potential phase-in periods that may be necessary for those beneficiary countries with less developed economies to implement the obligations of the NAFTA.

(2) FACTORS IN ASSESSING ABILITY TO IMPLEMENT NAFTA.—In assessment the ability of each beneficiary country to undertake the obligations of the NAFTA, the Trade Representative should consider, among other factors—

(A) whether the country has joined the WTO;

(B) the extent to which the country provides equitable access to the markets of that country;

(C) the degree to which the country uses export subsidies or imposes export performance requirements or local content requirements;

(D) macroeconomic reforms in the country such as the abolition of price controls on traded goods and fiscal discipline;

(E) progress the country has made in the protection of intellectual property rights;

(F) progress the country has made in the elimination of barriers to trade in services;

(G) whether the country provides national treatment to foreign direct investment;

(H) the level of tariffs bound by the country under the WTO (if the country is a WTO member);

(I) the extent to which the country has taken other trade liberalization measures; and

(J) the extent which the country works to accommodate market access objectives of the United States.

(c) PARITY REVIEW IN THE EVENT A NEW COUNTRY ACCEDES TO NAFTA.—If—

(1) a country or group of countries accedes to the NAFTA, or

(2) the United States negotiates a comparable free trade agreement with another country or group of countries,

the Trade Representative shall provide to the committees referred to in subsection (a) a separate report on the economic impact of the new trade relationship on beneficiary countries. The report shall include any measures the Trade Representative proposes to minimize the potential for the diversion of investment from beneficiary countries to the new NAFTA member or free trade agreement partner.

By Mr. GREGG:

S. 530. A bill to amend the Fair Labor Standards Act of 1938 to permit State and local government workers to perform volunteer services for their employer without requiring the employer to pay overtime compensation, and for other purposes; to the Committee on Labor and Human Resources.

THE STATE AND LOCAL VOLUNTEER PRESERVATION ACT OF 1995

• Mr. GREGG. Mr. President, it is my belief that the U.S. Government needs to foster voluntarism and philanthropy whenever it can. This is not how the system is currently working. On the contrary, overzealous regulation and oppressive Government agencies, such as the Department of Labor, stifle the efforts of citizens who want to volunteer some of their spare time to their community.

For example: In a small town in New Hampshire a police officer was using his free time at night to train women in self-defense. He volunteered to teach this course and did so gladly. The Labor Department came onto the scene, however, and told the police department that they must either pay the officer for overtime or cancel the program. The program was canceled for lack of funds. The women in this small town no longer have the option of free classes in order to learn to protect themselves.

This is a familiar story, not only to police departments across the country,

but also to many other types of State and local agencies whose employees want to serve their community but are forbidden to by the Department of Labor. These incidents occurred because of the manner in which the Labor Department has decided to apply the Fair Labor Standards Act to those who willingly and gladly volunteer some of their spare time to public service. Such regulatory overreaching typifies what has gone wrong with the Federal Government, when public spirit and common sense lose out to narrow and misguided bureaucratic objectives.

It is for these reasons that I am introducing the State and Local Volunteer Preservation Act of 1995, which amends the Fair Labor Standards Act to allow State and local public servants to volunteer their time to their employers if they choose to do so. This bill will extend to town clerks who want to help count ballots on election night; firefighters who want to help put out fires in their districts even if they are not on duty; police officers who want to work with police dogs or train women in self-defense; and many other public employees who want to volunteer their free time to their communities. We must act now to stop this encroachment on local voluntarism and allow our civic-minded citizens to volunteer their time to their community, no matter what their occupation.

I am pleased to announce that the International Association of Chiefs of Police [IACP] have endorsed this legislation. It is from police officers in New Hampshire that I first heard of this problem, and it is from IACP that I learned that these regulations were causing difficulties not only in New Hampshire, but around the country.

I hope my colleagues will join me in supporting this important measure. Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Volunteer Preservation Act".

SEC. 2. WAIVER OF OVERTIME COMPENSATION.

Section 7(o) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(o)) is amended—

(1) by redesigning paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5), the following new paragraph:

"(5) A public agency which is a State, political subdivision of a State, or an interstate governmental organization shall not be required to pay an employee overtime compensation or provide compensatory time under this section for any period during which the employee—

"(A) volunteered to perform services for the public agency; and

"(B) signed a legally binding waiver of such compensation or compensatory time."

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,

Alexandria, VA, March 8, 1995.

Hon. JUDD GREGG,

U.S. Senate,

Washington, DC.

DEAR SENATOR GREGG: The International Association of Chiefs of Police (IACP) has long been in support of amendments to the Fair Labor Standards Act. Applying laws and regulations initially designed for the private sector, to public sector employers and employees has created difficulties that can only be curbed by federal legislation. While IACP believes that other additional amendments would be helpful, we certainly support and endorse your proposed bill that would clarify the compensation status of reserve officers who wish to volunteer for public safety activities.

If we can be of further assistance, please do not hesitate to call.

Sincerely,

JOHN T. WHETSEL,
President. •

By Mr. HATCH:

S. 531. A bill to authorize a circuit judge who has taken part in an en banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes; to the Committee on the Judiciary.

S. 532. A bill to clarify the rules governing venue, and for other purposes; to the Committee on the Judiciary.

S. 533. A bill to clarify the rules governing removal of cases to Federal court, and for other purposes; to the Committee on the Judiciary.

TITLE 28 CORRECTION LEGISLATION

Mr. HATCH. Mr. President, I am today introducing three bills, each of which would correct an inadvertent glitch in title 28 of the United States Code. I believe that all my colleagues will find these bills to be uncontroversial and nonpartisan. But they are nonetheless important, for they clean up problems that have surfaced in existing provisions.

Let me briefly describe the three bills.

My first bill would modify section 46(c) of title 28 to authorize a circuit judge who has taken part in an en banc hearing of a case to continue to participate in that case after taking senior status. Section 46(c) currently sets forth a general rule with one exception: It provides that only circuit judges in regular active service may sit on the en banc court, except that a senior circuit judge who was a member of the panel whose decision is being reviewed en banc may also be eligible to sit on the en banc court. This general rule makes good sense, for it ensures that it is the judges in regular active service who determine the law of the circuit. The exception also makes good sense, since it enables the court to avoid wasting the already-expended efforts of a judge.

The current language of section 46(c), however, inadvertently creates a prob-

lem, for it appears to require a circuit judge in regular active service who has heard argument in an en banc case to cease participating in that case when that judge takes senior status. Courts of appeals have regarded themselves as bound to so construe the statute. See, e.g., *United States v. Hudspeth*, No. 93-1352—7th Cir. Oct. 28, 1994. This result is problematic, for it means that at the time of argument in an en banc case, it may be unclear who will be eligible to vote on the final disposition. Worse, there is the possibility that a judge might delay—or might be perceived as delaying—the release of an opinion until a member of the court takes senior status, in order to affect the outcome. As the seventh circuit's discussion in *Hudspeth* makes clear, there is every reason to believe that this consequence was inadvertently produced by Congress. The Judicial Council of the seventh circuit has written to me recommending that this provision be reconsidered. Other courts have also faced difficulties with this provision. My bill would correct this problem.

My second bill adopts a proposal by the Judicial Conference of the United States to correct a flaw in a venue provision, section 1391(a) of title 28. Section 1391(a) governs venue in diversity cases. Like section 1391(b), which governs venue in Federal question cases, section 1391(a) has a fallback provision—subsection (3)—that comes into play if neither of the other subsections confers venue in a particular case. See C. Wright, *Law of Federal Courts* 262—5th ed. 1994—Specifically, subsection (3) provides that venue lies in "a judicial district in which the defendants are subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought."

The defect in this fallback provision is that it may be read to mean that all defendants must be subject to personal jurisdiction in a district in order for venue to be lie. Under this reading, there would be cases in which there would be no proper venue. In short, the fallback provision would not always work. Such a result is undesirable and appears to be the inadvertent product of a rather tortuous drafting history. See C. Wright, *supra*, at 262 n. 35.

My bill would eliminate the ambiguity in subsection (3) by specifying that venue would be proper under this fallback provision in a district in which any defendant is subject to personal jurisdiction. This language would track the language in the parallel fallback provision in section 1391(b). Again, I note that the Judicial Conference has endorsed this change.

My third bill would remedy a problem that has arisen in the procedures governing remand to State court of cases that have been removed to Federal court. Section 1447(c) of title 28 provides that a motion to remand a

case on the basis of any defect in removal procedure must be made within 30 days of the filing of the notice of removal. It appears clearly to have been the intent of Congress that the phrase "any defect in removal procedure" would encompass any defect other than lack of subject matter jurisdiction. Section 1447(c) specifies that no time limit applies to motions to remand based on lack of subject matter jurisdiction. But a few courts have taken a more narrow reading, and a circuit split exists. See *C. Wright, supra*, at 249-250 and nn. 3-6. My bill would make clear that a 30-day limit applies to all motions to remand except those based on lack of subject matter jurisdiction.

By Mr. SMITH (for himself and Mr. CHAFEE):

S. 534. A bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

INTERSTATE WASTE AND FLOW CONTROL LEGISLATION

Mr. SMITH. Mr. President, I am today introducing legislation that I believe will solve the longstanding problem of the interstate disposal of solid waste, as well as address the more recent issue involving the use of flow control measures to control the disposal of these materials.

For those of my colleagues who are not familiar with the issue, the controversy surrounding the interstate transportation of solid waste is one that the Senate has been considering since before 1990. Today, 47 States export approximately 14 to 15 million tons of solid waste per year for disposal in other States. While short distance waste exports have been occurring for some time, the development of a longhaul waste transport market has been a more recent development. With tipping fees of \$140 per ton in some large cities, compared with a national average of between \$30 and \$50, there is an incentive for municipalities to transport these wastes by truck and rail to distant States for permanent disposal.

Those States that have recently been the recipients of large amounts of longhaul wastes have raised a concern that their limited capacity for solid waste disposal is being filled, and that they have become the dumping ground for someone else's waste problems. Over the last few years, 37 States have passed laws to prohibit, limit, or severely tax waste that enters their jurisdiction. However, almost all of these laws have been stuck down for violating the commerce clause of the Constitution. While there has been some recent easing of disposal capacity nationwide, there are still significant concerns about the future consequences of the long-haul system.

To address these concerns Congress, as well as the Environment and Public Works Committee, in particular, have been attempting to strike a balance between importing and exporting States. Last year, the Committee on Environment and Public Works, of which I am a member, unanimously reported S. 2345 to address this problem. A number of Members, both on and off the committee, including Senators COATS, SPECTER, LAUTENBERG, MOYNIHAN, and others, took a very active role in attempting to develop a compromise that importing and exporting States could live with. While the Senate easily passed this compromise by voice vote on September 30, 1994, time ran out before this issue could be finally resolved.

Today I am offering legislation that is cosponsored by Senator CHAFEE, the chairman of the Environment and Public Works Committee, that will address both interstate waste and flow control. Title I of our bill, which pertains to interstate waste, is essentially the same package that the Senate overwhelmingly supported last year. There was no opposition that I was aware of. It is our hope that we will have similar support for this legislation so that we can quickly lay this issue to rest.

The issue of flow control is another trashrelated concern that has been brought before Congress as a result of Supreme Court action. In essence, flow control is a mechanism that has been utilized by a variety of towns and cities to mandate that solid waste be disposed of at facilities designated by that entity. In May 1994, the Supreme Court, in the decision of *Carbone versus Clarkstown*, struck down a New York flow control ordinance as a violation of the commerce clause. For better or worse—depending on your point of view—the *Carbone* decision essentially halted efforts nationwide to enact flow control measures. Cities and towns that utilized flow control authority prior to *Carbone* assert that it allowed them to create integrated waste control systems, including activities such as recycling, composting, and hazardous waste collection—that would not have been possible without this authority.

Since 1980, over \$20 billion in municipal bonds have been issued to pay for the construction of solid waste facilities utilizing flow control. In the wake of *Carbone*, there has been a strong concern raised that without prompt action by the Congress to authorize some flow control, many cities and towns that let these bonds are in danger of having these investments downgraded—some say even turned into junk bonds. This concern was underscored by a recent decision of Moody's Investors Service to downgrade the waste bond rating of five New Jersey counties to below investment grade status. In addition to bond-related con-

cerns, the proponents also assert that the failure of Congress to provide flow control authority will leave State and local governments defenseless in their efforts to control the export of interstate waste.

It must be noted, however, that flow control does not have universal support. It does not really have this Senator's support. A number of mayors and local officials, such as Bret Schundler, the mayor of Jersey City, NJ, have gone on record in strong opposition to the use of flow control. They argue essentially that flow control limits the ability of local government to find low-cost, environmentally sound disposal alternatives, and results in exorbitant and unnecessarily high tipping fees.

In addition to these arguments, a recently released EPA report entitled "Flow Controls and Municipal Solid Waste," concludes that not only is there "no empirical data showing that flow control provides more or less protection" to human health and environment. The report then goes on to say that there is no evidence that "flow controls are essential either for the development of new solid waste capacity or for the long-term achievement of State and local goals for source reduction, reuse, and recycling."

So, last week, the Environment and Public Works Subcommittee on Superfund, Waste Control and Risk Assessment, which I chair, of course, held an extensive hearing that focused on two issues: Both flow control and interstate waste. During that hearing, we heard testimony from New Jersey Governor Christine Todd Whitman and others, including Congressman CHRIS SMITH of New Jersey, who called for the enactment of very broad flow control authority for municipalities in States well into the future. Others, including the Natural Resources Defense Council and Competitive Enterprise Institute requested that the Senate enact no flow control whatever.

My subcommittee also heard from the Public Securities Association which outlined the domino effect that might occur if Congress were to fail to authorize any flow control for those municipalities that have already let bonds under the presumption that they had the authority to flow control. They assert that not only would a failure to enact this authority affect the value of the existing flow control bonds, but it would also have a detrimental effect on the ability of the municipalities to let any bonds in the future.

So, the language that Senator CHAFEE and I are today introducing will protect those municipalities that impose flow control pursuant to a law, ordinance, regulation, or any other legally binding provision prior to May 15, 1994, prior to the *Carbone* decision, and which implemented flow control by designating a flow control facility

prior to that date. In addition, this bill will protect those municipalities that imposed flow control prior to May 15, 1994, but which were in the midst of constructing such a flow control facility. Thus, in other words, if the municipality had its permits to construct and had signed contracts to build the facilities, had let revenue bonds, or had received its operating permit prior to May 15, 1994, it would also be able to take advantage of the grandfather provision and the protection that we are providing in our bill.

Our bill also provides sufficient flexibility so that the facilities that need to retrofit or modify their equipment to meet environmental or safety requirements, or if the facility needs to expand on the land that they own and that it is covered by their permit, they will be allowed to do so.

But it does not stop there Mr. President. Our bill is intended to provide a sense of finality to this issue. Precisely 30 years after this legislation is adopted, no further flow control measures will be allowed. Zero, none.

I want to be clear: I am opposed to flow control. I think the interstate commerce clause is exactly correct and the court's ruling was correct. I am not convinced that communities need to have broad flow control authority in order to ensure the proper disposal of their solid wastes. Nonetheless, I am aware of and I am sympathetic to and understand the position of those cities and towns that need this grandfathering so they can pay off the bonds that were let, based on the presumption that they had this authority. They thought they had the authority, they let the bonds, and they are kind of in the middle in a whipsaw, what to do. And nothing has been done since May 15, 1994, except the bonds have been going down in value.

So, under our bill, those municipalities that took action on this presumption will be protected. It is a grandfather protection. It ends in 30 years. Why 30 years? Because that is as long as any bonds that we know of are out there. It is a compromise.

Frankly, it is not my philosophical view. I do not believe that there ought to be flow control, but I do understand that things happen. Sometimes people believe they are doing the right thing, think they have the authority to do the right thing, and they get caught in the middle.

I believe this legislation strikes a fair balance in accommodating those who are strong proponents of States' rights and those who are strong proponents of the free market system.

Now, there are some who will probably try to amend this legislation, perhaps here on the floor or in committee, who will take the position that the States should have the total right to enact flow control any way they want to do that. But that is not the free

market system. I am surprised, somewhat, by some of my colleagues who take that position who claim to be free marketeers.

So, in essence, what I tried to do in order to help those people who immediately need the help, is to craft this compromise, to grandfather the situations where there is an urgency here, where there has been some money expended, through the processes that I indicated, letting the bonds, or permitting, or construction work, or contracts, allow that to be grandfathered, and then at the end of that period of time, we go back to no flow control, we go back to interstate commerce.

Now, I am not convinced that the free market could not fully address this issue of disposing of our Nation's solid waste, but I am willing to make this accommodation.

Now, again, let me repeat, so that there is no misunderstanding, I do not support systemwide flow control, and I am strongly opposed to any prospective flow control. I feel that our bill has struck the balance, and I do not feel we need to go any further. Grandfathering is there. It ends in 30 years from the date of the enactment of the legislation.

Those municipalities that are in danger of having their bonds downgraded have requested that we move quickly to resolve this issue. That is exactly what I have been doing. It is the first piece of legislation that we worked on and marked up. There are many other pieces of legislation out there that are very critical, that are very high priority to me and to the Senate, including Superfund. We put this first in order to accommodate these communities, these municipalities, who have this problem.

I would hope that those people who might have a stronger view that we ought to have total flow control would understand that I have done this in an effort to help those communities and not get this thing into an extended debate, an extended controversy, to try to go all the way over to systemwide flow control and allow what I believe to be a reasonable compromise to pass.

I hope that my colleagues will support this legislation. It is very carefully thought out. Senator CHAFEE was immensely helpful and supportive. Senator COATS did a lot of work on interstate transfer of waste. He was very helpful, of course, and others. I hope that we will get support for this legislation, that it will pass quickly, as we do have kind of an emergency situation out there with these municipalities.

But I would just say to my colleagues, if we wind up in a huge floor fight, either out here on the floor or perhaps a fight in committee which delays this, then I think we are making a serious mistake in not helping those communities who really need the help.

Again, this is a big step for me because I believe that there should not be

flow control, as I indicated. And had this situation not developed where we had these municipalities who had let these bonds, we would be out here with legislation that basically says there would be no flow control.

So I am doing this as a compromise to help those communities and municipalities in need. Hopefully, people will understand that and this legislation will be promptly passed by the Senate, sent to the House and signed by the President and become law.

Mr. CHAFEE. Mr. President, today I join the Senator from New Hampshire [Mr. SMITH] in introducing legislation dealing with interstate waste and flow control authority. I want to acknowledge the Senator's effort. As the chairman of the Environment Committee's Superfund, Waste Control, and Risk Assessment Subcommittee, the Senator from New Hampshire has taken the lead in drafting this legislation, targeting issues that went unresolved last year.

As you may recall, at the close of the last session of Congress, a so-called compromise on interstate waste and flow control was approved by the House and sent to the Senate on the last day of the session. I had real concerns with the bill. We could have approved that bill if there had been time for debate and an opportunity to consider amendments. But that was not the case. It was a take-it-or-leave-it proposition, and for a number of reasons, I could not take it.

The legislation was broad in scope, both on interstate and flow control. In my view, unlike the Senate-passed bill on interstate waste—which was a fair accommodation of importing and exporting States' interests—the House-passed bill tilted the scales out of balance in favor of importing States. Rhode Island, I might add, is a waste exporter. On flow control—which was not addressed in the Senate bill—the House bill favored local governments to the detriment of consumers and small business.

My major concerns with the House-passed bill revolved around three key issues, one on interstate and two on flow control.

On interstate, the primary problem was the inclusion of language creating a statutory presumption against the lawful shipment of waste across the State lines. On flow control, the House-passed bill granted authority not only to existing facilities with outstanding bond debt—the Public Securities Association's primary concern—but also to facilities with little or no financial exposure. In addition, the language would have resurrected Rhode Island's flow control authority—even though a Federal district court blocked that law in 1992, and the State has no need for the authority.

Now, to the legislation. For the record, Senator SMITH chaired a Waste

Control Subcommittee hearing on March 1, 1995, to solicit testimony on interstate waste and flow control from the various interest groups, including the National Association of Counties, the National Federation of Independent Business, the Natural Resources Defense Council, and waste haulers. In addition, Senators COATS and COHEN as well as Representative CHRIS SMITH and Gov. Christine Todd Whitman testified before the committee. There is great interest in moving this legislation early in the session, and we intend to do so.

The legislation is straightforward. Title I deals exclusively with the interstate transport of waste. Title II focuses on the issue of flow control.

Let me turn to title I. On interstate shipments, this bill we are introducing is similar to S. 2345, legislation that was approved unanimously by the Senate last year. I want to make it clear that the bill before us deals exclusively with the transport, across State borders, of municipal solid waste—commonly known as garbage or trash. It purposely avoids imposing restrictions on the interstate transport of hazardous waste, industrial waste, or even construction and demolition debris, which create a different set of problems, and would require markedly different approaches.

The interstate conflict is a symptom of a larger solid waste problem. Our society is generating more and more waste. We are a throw-away society. As a result, our landfills have become precious resources. What's more, communities all across the country are finding it exceedingly difficult to site new capacity, even for waste generated within their borders.

Listen to these statistics. In the United States, we generate about 180 million tons of municipal waste each year. Forty-three States ship some 15 million tons out of State each year. Forty-two States also import some waste. Nearly every State relies on at least one other State to handle some portion of their waste. The vast majority of these shipments are non-controversial, so-called border waste which has been traveling short distances over State lines for years. We do not want to upset these arrangements unnecessarily.

The real problem arises when some States, such as Pennsylvania, Indiana, and Ohio are forced to accept far more waste than they want. We need a three-part strategy to solve this problem. First, we must reduce the amount of waste we produce. Second, we need to recycle more of the waste that is produced. And third, States and localities must be given some additional authority to control the disposal of waste in a safe and environmentally sound manner.

Toward this end, the bill we are considering would give States limited au-

thority to impose restrictions on municipal wastes that are imported from other States. Subject to certain exceptions, this legislation allows a Governor to prohibit shipments of out-of-State waste if the affected local government submits a request to the Governor. In addition, a Governor could unilaterally freeze out-of-State waste at 1993 levels at certain landfills and incinerators.

The legislation, I must admit, is complicated because it attempts to accommodate the interests of many Members and because it recognizes that interstate waste is not an issue in just one or two States. In developing this bill, the chairman has struggled to provide States some control over imported garbage without unduly limiting interstate commerce.

In addressing the problem, the chairman has tried to find a solution that will reduce unwanted imports, and yet give exporting States some time to reduce the amount of waste generated, to increase recycling, and to site new, in-State capacity. I believe the legislation we are considering, while far from perfect, is equitable, and will provide a responsible solution to the problem.

To be sure, our work on this issue, as well as on flow control, has just begun. Senator SMITH and I are ready to work with the committee and other interested Members of the Senate to craft a bill that can be approved by both Senate and House.

Now to title II on flow control. Flow control is the method used to route a community's solid waste to designated, often publicly financed, disposal facilities, with little or no competition from the private sector. Flow control laws, because of their potential interference in interstate commerce, have been overturned in several Federal courts, most recently last May at the Supreme Court in *Carbone versus Clarkstown*. The issue is controversial both for the private waste market and the many communities that have financed waste facilities in reliance upon flow control.

The implications of congressional action on flow control have the potential to resonate throughout the economy. Flow control laws have been widely used in recent years, often as a tool to guarantee that projected amounts of waste and revenues will be received at waste management facilities funded by revenue bonds. In fact, since 1980, over \$24 billion in municipal bonds have been issued to pay for the construction of solid waste facilities.

In the overwhelming majority of cases, investors were assured that the projected amounts of waste would be delivered to the facility because flow control laws were in place. In some cases, the local government agreed to bear the risk that flow control laws would be found to be unconstitutional. They have enforceable put-or-pay contracts. Now, unless a solution is devel-

oped, affected governments' bond ratings may be at risk, and local residents will have to pay for services they are not receiving.

In developing a solution, however, we must take into consideration not only the interests of local taxpayers and bondholders but also consumers and small business who may get a better deal in the absence of flow control laws. Furthermore, I have great concern generally with the anticompetitive nature of flow control.

The bill we are introducing today strikes a balance, protecting past community investments based on flow control without perpetuating an anti-competitive market going forward. Under our bill, each State and each political subdivision may exercise flow control authority if that authority is imposed pursuant to law or other legally binding provision and has been implemented by designating facilities that were constructed after the effective date of the provision and prior to May 15, 1994. In addition, the bill provides a grandfather provision, for communities that have made a substantial commitment toward the designation of a waste management facility, although not yet constructed, prior to May 15, 1994. Finally, the bill includes a flow control authority sunset provision effective 30 years after date of enactment.

Mr. President, I believe this legislation represents a good faith effort to bring the various parties together on the issues of interstate waste and flow control. It provides additional authority to waste importers without overriding the needs of waste exporting States—it protects past community financial investments and yet provides opportunities for the private sector. So, I commend the Senator from New Hampshire and look forward to working with him and the other members of the committee to report this legislation in an expeditious fashion.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 537. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALASKA NATIVE CLAIMS SETTLEMENT ACT
AMENDMENTS ACT OF 1995

• Mr. MURKOWSKI. Mr. President, I am pleased to introduce a bill to amend the Alaska Native Claims Settlement Act of 1971. This legislation is noncontroversial and fully supported by the Alaska Federation of Natives. The bill was passed by the House of Representatives last Congress. The Senate Energy Committee held hearings and approved a similar bill. Unfortunately, it did not pass the full Senate last year because of an issue unrelated to this legislation.

The enactment of the Alaska Native Claim Settlement Act [ANCSA] was a

landmark event in Alaska's history. The land grants and compensation provided to Alaska Natives under ANCSA was unprecedented and has proven to be a successful alternative to the reservation system in the lower 48 States. ANCSA created business corporations based on existing Alaska Native communities and the corporations are responsible for investing and managing assets provided under ANCSA for the benefit of the all-Native shareholders. ANCSA created a system that allows Alaska Natives to become self-sufficient.

While I am happy to say that the system created under ANCSA is working, there are some changes that are sometimes necessary to make sure the intent of ANCSA is carried out. This bill corrects existing technical problems with ANCSA and the Alaska National Interest Lands Conservation Act [ANILCA]. An identical bill was introduced in the House by my colleague from Alaska.

The legislation is designed to resolve specific problems, for example one section of the bill will make it possible for the Caswell and Montana Creek Native groups to receive lands approved by a February 1976 agreement and finally fulfill their land entitlement under ANCSA. Another provision would allow Chugach Native Corp. to select a specific tract of land at the edge of their own current boundaries. Included in this bill there are eight technical amendments to resolve specific issues. Another section would make certain veterans from the Vietnam era eligible for land allotments under ANCSA.

Mr. President, it is my hope that the committee which last year agreed that all of these items were noncontroversial will retain their spirit of cooperation so that this legislation will be able to move early in this session.●

By Mr. HATFIELD:

S. 538. A bill to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

TALENT IRRIGATION DISTRICT LICENSE EXTENSION

● Mr. HATFIELD. Mr. President, today I am introducing legislation which allows the Federal Energy Regulatory Commission to grant Talent Irrigation District, in Jackson County, OR, an extension of its hydro project construction commencement deadline.

The project is a 2.4-megawatt powerhouse, planned as an attachment to the existing Emigrant Dam, on the Emigrant River in southern Oregon. Low water conditions in the Emigrant River, resulting from 8 years of continuous drought in Oregon, have caused the irrigation district to reevaluate the operating plan of the project. I believe

granting an extension in this case will enable local officials to better configure this project to maximize power production and fish enhancement in light of the reduced water flows in the Emigrant River.

Construction of the existing Emigrant Dam was completed in 1959. It has a structural height of 176 feet and impounds 39,000 acre feet of water, which is delivered to about 8,000 users, irrigating approximately 30,000 acres.

On May 24, 1989, FERC issued a construction license to the Talent Irrigation District for the hydro project extension at Emigrant Dam. The license required construction to commence within 2 years—by May 24, 1991. In January 1991, the district requested and received a 2-year extension of the construction commencement deadline, until May 24, 1993, citing the need to consult further with the Bureau of Reclamation and continue negotiating a power sales agreement.

All negotiations were completed by April 1992, but the low flow conditions in the Emigrant River caused the Talent Irrigation District to postpone the commencement of construction and reevaluate the hydro project's proposed operating plan. When the 2-year extension expired on May 24, 1993, FERC canceled the license.

In order to commence with this project, the district needs its license reinstated and additional time to carefully evaluate the operating plan for the Emigrant hydro project and adjust it to perform better under low water conditions, both for power production and fish enhancement. The Federal Power Act, however, only allows FERC to grant one 2-year extension to the district, which it granted in 1991. Therefore, legislation is required to authorize FERC to extend the deadline further.

The legislation I am introducing today reinstates the Talent Irrigation District license and grants the district up to 4 years to begin construction.

I look forward to working with members of the Senate Energy and Natural Resources Committee to ensure that this proposal receives prompt and thorough attention.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF PERMIT EXTENSION DEADLINE.

Notwithstanding the expiration of the permit and notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 7829, the Commission shall, at the request of the licensee

for the project, reinstate the permit effective May 23, 1993, and extend the time period during which the licensee is required to commence the construction of the project to the date that is 4 years after the date of enactment of this Act.●

By Mr. COCHRAN:

S. 539. A bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools; to the Committee on Finance.

THE HEALTH RISK POOLS ACT OF 1995

● Mr. COCHRAN. Mr. President, today I am introducing legislation to grant Federal tax exemption to State health risk pools. The purpose of a health risk pool is to provide health and accident insurance coverage to individuals who, because of health conditions, would otherwise not be able to secure health insurance coverage.

Since 1976, 28 States have enacted legislation establishing a health insurance pool aimed at protecting uninsurable and high-risk individuals. Most of the pools were established in the last 4 years.

For example, the Comprehensive Health Insurance Risk Pool Association Act was enacted by the Mississippi State Legislature during the 1991 legislative session and became effective April 15, 1991. At that time Mississippi became the 25th State to enact such legislation.

The Comprehensive Health Insurance Risk Pool Association was created to implement such a health insurance program. Members of the association include insurance companies and non-profit health care organizations which are authorized to write direct health insurance policies and contracts supplemental to health insurance policies in Mississippi. The association also includes third party administrators who are paying and processing health insurance claims for Mississippi residents.

Over the past 3 years, the association has issued medical insurance policies to approximately 900 Mississippians. The association is funded by premiums paid by policyholders and quarterly assessments against members of the association. There is no public funding—State or Federal—involved.

Currently, about 120,000 individuals nationwide are a member of a State pool. Nationally, there are an additional 1 to 3 million people who are uninsured and uninsurable, and who could be eligible for inclusion in a State pool.

Unfortunately, several State health risk pools have applied for, and have been denied, exemption from Federal taxation under Internal Revenue Code sections 501(c)(4) and/or 501(c)(6). Generally, the Internal Revenue Service's [IRS] rationale for such denial has been that the sole activity of the health risk pools is the provision of health insurance for individual policyholders. The IRS perceives, incorrectly in my view, health risk pools as a regular business ordinarily carried on for

profit, which primarily provide commercial type insurance. Moreover, the IRS takes the position that health risk pools are primarily serving the private interests of its members and not the common interest of the community as a whole.

In its decision to deny the State of Mississippi's Comprehensive Health Insurance Risk Pool Association exemption from Federal income tax, the Internal Revenue Service in a letter dated August 16, 1993, states:

For purposes of section 501(c)(6) of the Internal Revenue Code, an organization providing insurance for its members or other individuals, except in very limited instances, either is considered to be engaged in an activity that is an economy or convenience in the conduct of members' businesses because it relieves the members of obtaining insurance on an individual basis, or is a regular business of a kind ordinarily carried on for profit. In either case, the activity of providing insurance is not considered to be an exempt activity under section 501(c)(6) and, if it is the primary activity of the organizations, exemption under section 501(c)(6) is precluded pursuant to section 1.501(c)(6)-1 of the regulations.

However, health risk pools have been created by statute in several States to serve a public function of relieving the hardship of those who, for health reasons, are unable to obtain health insurance coverage. These pools do not carry on an activity ordinarily carried on by insurance companies and are not designed to make a profit. Further, they are established by State statute and none of the net earnings benefits any private shareholder, member, or individual.

The Federal Government should serve as an impetus for, not an impediment to, State health care reform. We should do all we can to increase the ability of States to help the uninsured. The Senate Finance Committee recognized the value of health risk pools and included a version of this bill in their health care reform legislation last year.

In order to allow States real flexibility in designing effective health care plans, State health risk pools should be exempt from taxation. By passing this legislation, we will promote State-based health care reform by expressly granting Federal tax exemption to State health risk pools, notwithstanding the IRS's current position. While future national health care reform may eliminate the need for State health risk pools, until such reform is implemented, these entities will remain the only source of medical insurance for many of our citizens.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 539

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 501 of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(26) Any corporation, association, or similar legal entity which is created by any State or political subdivision thereof to establish a risk pool to provide health insurance coverage to any person unable to obtain health insurance coverage in the private insurance market because of health conditions and no part of the net earnings of which inures to the benefit of any private shareholder, member, or individual."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989. •

By Mr. GLENN (for himself, Mr. DEWINE, and Mr. LEVIN):

S. 540. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to conduct at least three demonstration projects involving promising technologies and practices to remedy contaminated sediments in the Great Lakes system and to authorize the Administrator to provide technical information and assistance on technologies and practices for remediation of contaminated sediments, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself, Mr. DEWINE, Mr. LEVIN, and Mr. FEINGOLD):

S. 541. A bill to amend the Federal Water Pollution Control Act to coordinate and promote Great Lakes activities, and for other purposes; to the Committee on Environment and Public Works.

GREAT LAKES RESOURCES LEGISLATION

Mr. GLENN. Mr. President, it is my pleasure to rise today on behalf of myself and my distinguished colleagues, Senator DEWINE and Senator LEVIN to introduce the Assessment and Remediation of Contaminated Sediments [ARCS] Reauthorization Act and on behalf of Senator DEWINE, Senator LEVIN, and Senator FEINGOLD to introduce the Great Lakes Federal Effectiveness Act.

I am honored to be joined by a new Great Lakes Senator, Senator DEWINE. I am pleased that the Senator from my home State, Ohio, has shown such significant leadership on Great Lakes issues so early on in the 104th Congress. Both Senator LEVIN and Senator FEINGOLD's consistent leadership on issues of critical importance to the Great Lakes is exemplary. Furthermore, I am honored that another Ohio colleague, Congressman LATOURETTE, and Congressman QUINN are introducing a House companion bill for the Great Lakes Federal Effectiveness Act with Congressman OBERSTAR joining them on the ARCS Reauthorization Act.

These two bills address the unique water resources in the Great Lakes region, the impact of contaminated sediments on our freshwater resources and the need for coordinated research efforts to efficiently apply science to our efforts to protect and restore the Great Lakes. I am proud to join my colleagues from the Great Lakes region in the introduction of the ARCS Reauthorization Act and the Great Lakes Federal Effectiveness Act.

Sedimentation has created a need to dredge Great Lakes harbors for decades. Industrialization of our region and the nation increased the amount of erosion and storm water runoff which in turn escalates the amount of sediment being deposited on our lake and river bottoms and coastal shores. Unfortunately, recent times have seen dredging become increasingly costly largely due to the contaminants which accompany the silt. Contaminated dredge spoils require special handling for proper disposal which adds to the cost of the dredging.

Contrary to what one might think, the bottom of a water body is not a safe depository for toxics. Resuspension of these toxics may result from both human and natural activity in the water thus acting as a continual discharge of contamination into the water. The contaminants become available to enter the food chain or come in contact with recreational users. Contaminated sediments can result in shellfish contamination, fish advisories and threats to human health by those who consume tainted fish.

The ARCS Program is a demonstration program for innovative technology to address the problem of contaminated sediments. The 5-year ARCS program was originally authorized in the 1987 Clean Water Act. The ARCS Program authorized the implementation of pilot-scale tests of promising sediment remediation technologies to address the water pollution problems in the Great Lakes. Reauthorization of the ARCS Program takes us to the next level: full-scale demonstrations of contaminated sediment remediation. The ARCS Program, coordinated by the Administrator of the EPA, acting through the Great Lakes National Program Office, would implement three sediment remediation demonstration projects and at least one full-scale demonstration of a remediation technology.

The second bill, the Great Lakes Federal Effectiveness Act [GLFEA] is consistent with the current efforts to streamline Government and reduce redundant or outdated programs. The GLFEA will prevent unnecessary duplication of efforts among Federal agencies which undertake Great Lakes research. The act establishes a Great Lakes Council, composed of offices from the Environmental Protection Research Agency, Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other

Federal agencies conducting research in the Great Lakes basin. The Council will assess the current status of scientific research capabilities, identify research priorities for the region, make recommendations for integrated data collection and management of Great Lakes resources, and finally develop and disseminate its findings through a biennial report.

The Great Lakes Federal Effectiveness Act does not require any new funding, rather it actually aims to help agencies better manage their research budgets and potentially cut costs through cooperative efforts to set research priorities and avoid unnecessary or duplicative projects. The Great Lakes Council will essentially serve as a clearinghouse for Great Lakes information and research findings and develop a uniform, multimedia, data collection protocol for use across the Great Lakes basin.

The multimedia approach of this legislation allows our experts to share scientific knowledge and address air, water, soil, and wildlife factors in our efforts toward responsible stewardship of the Great Lakes ecosystem. This ecosystem perspective on the natural environment, if incorporated into our Federal environmental policy, promises to fundamentally improve the effectiveness and efficiency of environmental management.

The Great Lakes Federal Effectiveness Act will provide Federal, State, academic and private sector officials with a vehicle through which information can be compiled and ultimately shared among the region's research community. The act will stretch our research dollars and help us to better tap scientific resources within the private sector, the academic community, and Federal agencies. I urge my colleagues of the Senate to endorse this legislation and move toward its timely enactment.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 111

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 111, a bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 154

At the request of Mr. BUMPERS, the name of the Senator from Illinois [Mr. SIMON] was withdrawn as a cosponsor of S. 154, a bill to prohibit the expendi-

ture of appropriated funds on the Advanced Neutron Source.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 254

At the request of Mr. LOTT, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from Missouri [Mr. BOND], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 394

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 394, a bill to clarify the liability of banking and lending agencies, lenders, and fiduciaries, and for other purposes.

S. 457

At the request of Mr. SIMON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of U.S. immigration laws.

S. 495

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 508

At the request of Mr. MURKOWSKI, the name of the Senator from Maine [Mr.

COHEN] was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 518

At the request of Mr. THOMAS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 518, a bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States, and for other purposes.

SENATE RESOLUTION 87—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE U.S. SENATE

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 87

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the National Geographic Society to photograph the United States Senate in actual session on a date and time to be announced by the Majority Leader, after consultation with the Minority Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption of Senate proceedings.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, March 20, 1995, at 10 a.m., to conduct a hearing on the Mexican peso.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Friday, March 19, 1995, beginning at 10:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on welfare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet for a classified briefing during the session of the Senate on Friday, March 10, 1995, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE
CONTROL, AND RISK ASSESSMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to meet Friday, March 10, 1995, at 9:30 a.m. to conduct an oversight hearing regarding the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SOCIAL SECURITY AND THE
BALANCED BUDGET

• Mr. SIMON. Mr. President, for the benefit of my colleagues, I wrote a newspaper column intended to end much of the confusion surrounding Social Security and its role in the recent debate on the balanced budget constitutional amendment.

I ask that the text be printed in the RECORD.

The column follows:

A REALITY CHECK ON SOCIAL SECURITY AND
THE BALANCED BUDGET AMENDMENT

There is some confusion about the role of Social Security and the Balanced Budget Amendment. Let me answer a few of the questions that people are asking:

Would the Balanced Budget Amendment treat Social Security any differently than it is being treated now?

No. And if you are confused on this point, don't feel badly. One of the senators who participated in the debate didn't understand this either.

Does the Balanced Budget Amendment voted on recently treat Social Security differently than the amendment voted on in 1994?

The wording is identical on anything related to Social Security.

Would the Social Security system be better off with or without a Balanced Budget Amendment?

Much better off with a Balanced Budget Amendment. The great threat to Social Security is the growing federal debt. If it continues as projected, the United States government will eventually "solve" its problem like all nations with huge debts have historically done, by printing more and more money, making the dollar worth less and less. When you debase the value of the dollar, you also debase the value of the United States bonds that are the security for Social Security. If the dollar becomes worth ten cents, the bonds held by Social Security also drop 90 percent in value. That devastates Social Security. Those of us fighting for a Balanced Budget Amendment are trying to prevent this economic catastrophe from happening, but that is where we are now headed.

As a strong defender of Social Security, why didn't you vote to exempt Social Security in the Balanced Budget Amendment?

For two reasons.

First, I believe everything should be in the budget. As soon as you start making exceptions, where do you stop? I also believe it is important to include Social Security because in less than 30 years, Social Security

will spend more than it takes in. We should have an obligation to protect Social Security well into the future, and not use the excuse that it isn't our responsibility.

Second, to make an exception of Social Security would permit a huge loophole in the amendment. Future Congresses could put welfare under Social Security, senior citizen housing, and virtually anything else. Since the word "security" is used, a creative Congress could even put the defense budget under Social Security.

Will there be changes in Social Security programs?

Apart from balancing the budget, there will have to be, for the long-term future of Social Security. My guess is that those on Social Security retirement now will experience no change in their retirement, but to prepare for a less rosy future, for example, there may have to be a one-half of one percent increase in the tax for Social Security on employers and employees, and some type of gradual increase in retirement age, worked out with the senior groups. If we were to raise the retirement age by one month a year for twelve years, over that period the retirement age would be raised by one year, and save billions of dollars for the retirement fund.

Also, Medicare will face serious shortfalls in only a few years. Here I favor changes now. For example, why shouldn't everyone with an income of over \$100,000 a year pay for his or her own physician's fees? Hospital coverage and other features could remain the same. That one change would save billions of dollars.

Do Senators like Kent Conrad and Byron Dorgan of North Dakota have no valid point of concern?

They do. Since 1969 the federal government has included Social Security surpluses in our budgets so that the deficits would not look so bad. I have joined Sen. Fritz Hollings of South Carolina in trying to stop that practice, but administrations of both parties like to make their budgets look better.

During the evening negotiations on the Balanced Budget Amendment on the night the vote was first scheduled, Sen. Conrad was able to get an agreement to gradually move away from this practice, but he finally rejected the offer. One of my colleagues in the Senate told me, "Sen. Conrad was on the verge of a great victory for the Social Security cause and for sensible budgeting, but he blew it." I believe that judgment is premature. It is still possible that something can be worked out.

For the sake of Social Security recipients, and for the sake of the future of our country, I hope something will be.

THE UNITED STATES-NORTH
KOREA AGREED FRAMEWORK

• Mr. THOMAS. Mr. President, as the chairman of the Senate Subcommittee on East Asian and Pacific Affairs I come to the floor of the Senate this afternoon to briefly respond to certain statements made yesterday by representatives of the Government of the Democratic People's Republic of Korea regarding the agreed framework between our two countries governing the Democratic People's Republic of Korea's nuclear program.

North Korea has, for the second time in a month, again threatened to scuttle the agreement by making ludicrous

take-it-or-leave-it demands. This time, it refuses to accept delivery from the Republic of Korea of two light-water reactors called for under the framework. The Democratic People's Republic of Korea's Foreign Ministry issued a statement in Switzerland stating that if the United States does not agree to another country furnishing the reactors, "because of the United States' attitude in insisting on supplying the South Korea type, we will be forced to take an appropriate position." The statement continued, "Even if that brings about the breakdown of the framework agreement * * * we will have nothing to lose but fear."

Mr. President, I—and, I am sure, my colleagues—grow weary of the continual 11th hour posturing and brinkmanship which seems to be the mainstay of the North's negotiating strategy. In a speech in the Senate on February 13, 1995, I made clear my position:

I will not support the provision by the United States of one scintilla more than is called for in the Agreed Framework without substantial concessions from the DPRK; nor will I accept any diminution of the central role that has been set out for the ROK. South Korea is making a huge contribution to implementing the agreement, and it is their national interest that is most at stake. To accede to any demands by the DPRK in this regard is to assist it in its ongoing attempts to undermine US-ROK relationship.

This apparently bears repeating to drive it home to the North. If the Democratic People's Republic of Korea thinks that we will capitulate on the reactor issue, it is seriously mistaken. To put it into words that the Government in Pyongyang cannot mistake, its wish for reactors manufactured elsewhere is like a hungry man looking at "keurim eui teok i da," rice cakes in a picture. The North Koreans need to know, clearly and unequivocally, that on this point the Congress and administration are in complete and unwavering agreement; there is no acceptable alternative. We will stand by our position, stand by our principles, and most importantly stand by our important ally South Korea. If Pyongyang chooses to abandon the agreement, then so be it, we will quickly find ourselves back at the U.N. Security Council where the Democratic People's Republic of Korea will find itself the subject of tough economic sanctions.

Mr. President, next week at my behest the members of the Foreign Relations Committee will meet with Ambassador Galucci. I look forward to that meeting both as an opportunity to hear first hand about these latest developments, and as a chance to reiterate my position for the administration.

STUDENT LOAN CONFLICTS OF
INTEREST

• Mr. SIMON. Mr. President, my colleagues from Massachusetts, Senator

KENNEDY, yesterday recited a long list of items where the new Congress has declared war on working Americans.

One item that he mentioned is the attack on student financial aid: 75 percent of all college student aid comes from the Federal Government, much of that in the form of loans. The only significant Federal student aid subsidy that reaches middle-class families is the Federal payment of interest while students are in school. Now, it seems that this benefit is in danger in the House of Representatives.

Mr. President, I have argued that as far as student aid is concerned, we should not be balancing the budget on the backs of students while banks and middlemen continue to receive excessive subsidies in the Student Loan Program.

Two weeks ago, a letter I wrote to the Washington Post made the point that the Guaranteed Student Loan Program is not the private sector system that its proponents would have us believe it is, and that it is riddled with dangerous conflicts of interest.

In a response that appeared in yesterday's Washington Post, Roy Nicholson, the chairman of USA Group, charges me with vilifying and "attempt[ing] to silence" him, while ignoring "the substance of the debate" on student loans.

Ironically, Nicholson does not respond to the substance of the inspector general's concern, raised in my letter, that "billions of dollars of the Nation's [student loan] portfolio are at risk because many guaranty agencies *** have a clear conflict of interest."

Mr. President, I ask that the two letters and the inspector general report be printed in the RECORD at the conclusion of my remarks.

Guaranty agencies like USA Group are supposed to act as bank regulators on behalf of the U.S. Government. Since banks have little financial incentive to put serious effort into collecting payments on Government-backed student loans, it is the guarantors' responsibility to ensure that—before taxpayers reimburse banks for a default—the bank actually did try to collect.

But what if, as in the case of USA Group, the guarantor works not just for the Government, but for the banks, too? Clearly, this is a case of the shepherd moonlighting for the wolf. The inspector general provides a number of examples of how these arrangements put taxpayer dollars at great risk.

Last year, a specific incident involving USA Group made this conflict painfully clear. In an effort to address the default problem, Congress 2 years ago directed the Education Department to oversee the loan collectors. But last June, when the Department tried to implement the new rules—something that guarantors, as protectors of the taxpayers, should support—USA Group sued to stop the rules, arguing that it was not fair to them as contractors for the banks.

The student loan industry has decided that the only way to keep their entitlements in the face of President Clinton's money-saving reforms to the Student Loan Program is to portray the reforms as big Government, in contrast to the current private sector system.

Don't be fooled. It is not a private sector system when the Government takes virtually all the risk of default through entities it backs with the full faith and credit of the United States.

Mr. President, taking a closer look at what is really going on in the Guaranteed Student Loan Program is not "the politics of vilification" or an "attempt to silence." It is what the substance of the debate should be. It should come as no surprise to my colleagues that people do try to take advantage of Federal programs. I do not consider it out-of-bounds to describe the structures and perverse incentives that lead to abuse.

President Clinton has proposed that the costly and risky Guarantee Program be phased out and replaced by the Direct Student Loan Program, which is working remarkably well at the first 104 colleges involved this year. He is also proposing that guaranty agencies return \$1.1 billion in excess Federal reserves over the next 5 years.

These money-saving proposals should be seriously considered by Congress. Yet committee chairmen in both Houses are talking only about ways to put brakes on the Direct Loan Program.

Mr. President, we cannot afford to ignore the enormous abuses in the Guarantee Program. I urge my colleagues to take a closer look at both the Guaranteed and Direct Student Loan Programs, and to focus our efforts on providing assistance to students and taxpayers.

The material follows:

[From the Washington Post, March 2, 1995]
CONFLICT OF INTEREST IN THE STUDENT LOAN PROGRAM

In opposing President Clinton's money-saving reforms of the student loan program ["Clinton, GOP Split Over Student Loans," front page, Feb. 14], USA Group argues that it supports the "competition" in the current "private-public partnership."

Ironically, the only things "private sector" about USA Group are its salaries.

As a guarantor responsible for helping to oversee banks' roles in the student loan program, USAG has no private investors or contributors. Every penny of the \$141,087,845 that USAG had in the bank in 1993 came from federal entitlements set by lobbying Congress, not through private-sector competition.

Furthermore, USAG has taken those taxpayer funds and used them to start other businesses, including becoming lenders—putting USAG in the position of regulating its own banking activity. The Education Department's inspector general has called this a "clear conflict of interest," putting "billions of dollars of the nation's [student loan] portfolio at risk."

USAG paid its chairman \$527,833 plus benefits in 1992, even though it is a "charitable"

organization and its employees are essentially public servants.

Taxpayers and students can do without "partners" like these.

PAUL SIMON

[From the Washington Post, March 9, 1995]

THE DEBATE ABOUT STUDENT LOANS

Sen. Paul Simon's March 2 letter—which responds to The Post's Feb. 14 front-page story about the issue of direct government loans for college students—ignores the substance of the debate and instead levels an attack on USA Group Inc., the nation's leading guarantor-administrator of student loans.

Sen. Simon's letter continues an unfortunate pattern in which the proponents of government lending try to discredit those who disagree with them, and he recklessly disregards the facts about USA Group.

USA Group is proud of its public service to millions of American students, but that work doesn't make us public employees. The company was established as a nonprofit corporation in 1960, five years before enactment of the Higher Education Act, which created the guaranteed student loan program. From its inception, a major portion of revenues has derived from non-guarantor activities serving higher education.

USA Group affiliates annually open their books for numerous independent audits, including those undertaken by federal agencies. Contrary to Sen. Simon's unsubstantiated assertion, USA Group has never taken taxpayer funds to start other businesses, and these audits clearly demonstrate our compliance with the highest fiduciary standards.

USA Group's voice of experience, which Sen. Simon attempts to silence, is warning the nation's thoughtful policymakers—and there are many on both sides of the aisle—about the pitfalls they risk by accelerating government lending before we know whether the government can effectively operate a \$25 billion to \$30 billion a year consumer loan program.

The politics of vilification has no place in the debate. Let's hope that reason and fact prevail in determining whether government lending is in the best long-term interests of students, schools and taxpayers.

ROY A. NICHOLSON,
Chairman and Chief
Executive Officer,
USA Group.

U.S. DEPARTMENT OF EDUCATION,
San Francisco, CA, March 15, 1993.

Re Management Improvement Report No. 93-02.

To: Maureen McLaughlin, Acting Assistant Secretary for Postsecondary Education.

From: Regional Inspector General for Audit, region IX.

Subject: ED Should Prohibit Conflicts of Interest Between Guaranty Agencies and Affiliated Organizations.

The purpose of this Management Improvement Report is to advise you of an opportunity to improve the administration of the Federal Family Education Loan Program (FFELP) by prohibiting conflicts of interest between guaranty agencies and affiliated organizations that the guaranty agencies are required to monitor.

Affiliations with a FFELP loan servicer, secondary market, or other FFELP service provider compromise a guaranty agency's impartiality in administering the loan insurance program, and ensuring that lenders exercise due diligence in collecting insured loans. Currently, billions of dollars of the nation's FFELP portfolio are at risk because

many guaranty agencies are affiliated with FFELP loan servicers, secondary markets, and other FFELP service providers, and thus have a clear conflict of interest.

BILLIONS OF DOLLARS OF THE FFELP PORTFOLIO ARE AT RISK

We obtained data from 12 guaranty agencies that represent about \$59 billion in total loan guarantees (approximately \$42 billion in loans in repayment, and \$17 billion in loans in deferment). In fiscal year 1991, the 12 guarantors we contacted accounted for approximately 68 percent of the new FFELP loan volume. Nine of the 12 guaranty agencies, with approximately \$40 billion in loan guarantees, are affiliated with organizations that they are required to monitor. Of the \$40 billion in loan guarantees, we have identified approximately \$11 billion that are at risk due to the potential conflicts of interest. The schedule in Attachment A of this report illustrates the potential dollars at risk. The matrix in Attachment B of this report illustrates the various affiliations that may result in a conflict of interest. The notes to Attachment B explain the criteria we used to determine whether an affiliation exists. Where specific guaranty agencies are named in the body of this report, their designations correspond to those listed in the attachments to this report.

THE AFFILIATIONS CAUSE A NUMBER OF PROBLEMS

The affiliations take many forms. For example, Guaranty Agency B was so closely affiliated with a profit-making FFELP service provider that its CPA firm issued consolidated financial statements. Often, the guaranty agency acts as a parent corporation, with nonprofit and profit subsidiaries providing it with various services. In fact, Guaranty Agency G and a FFELP loan servicer functioned as divisions within a larger corporation. In other cases, the firms are legally separate, but are controlled by common management. In almost every affiliation, the firms share board members, corporate officers, management and employees. The firms also share assets, such as buildings, office space, computer equipment, and furniture.

The affiliations between guaranty agencies, FFELP loan servicers, secondary markets, and other FFELP service providers create many conflicts of interest. We interviewed ED and General Accounting Office (GAO) officials and reviewed ED OIG audit reports and guaranty agency program reviews performed by both Regional and Headquarters staff of the Office of Student Financial Assistance (OSFA). Each official we interviewed expressed concern that the conflicts could seriously impair the effectiveness of the FFELP. Similar concerns were expressed in the audit reports and program reviews. The concerns relate primarily to the guaranty agencies' loss of independence, the integrity of FFELP electronic data, the preferential treatment of affiliates, and the weakened financial condition of guaranty agencies. These concerns are discussed in the following paragraphs.

AFFILIATIONS CAUSE A LOSS OF INDEPENDENCE

Guaranty agencies play a critical oversight role in the FFELP. When a guaranty agency is affiliated with an organization that it is required to monitor, it may lack the independence necessary to objectively administer the program. Conflicting internal priorities may place undue pressure on the guaranty agency to make decisions that are not in the best interest of the taxpayer.

In one state, for example, the secondary market was instrumental in founding Guar-

anty Agency I. Later, the guarantor and the secondary market joined forces to create a new management company. As a result of this reorganization, the guaranty agency and the secondary market came under common management. Additionally, the secondary market has provided the guaranty agency with \$3.5 million in loans and is committed to provide an additional \$10 million line of credit.

In such cases, the guaranty agency may be unable to deal impartially with a corporation that is actively involved in its management and is a major source of its funding. If the guaranty agency disallows claims submitted by the secondary market, it hurts the finances of one of the guaranty agency's major funding sources.

The area of lender due diligence further demonstrates how important it is for the guaranty agency to remain independent of an organization it is required to monitor. Basically, lender due diligence regulations stipulate that the guaranty agency must ensure that the lender has taken all the required steps to collect the loan before it pays a default claim. In this case the lender can be the original lender, a secondary market, or a loan service acting on behalf of a lender. Therefore, the guaranty agency must review the collection activity of the lender or its agent to determine compliance with Federal due diligence requirements.

There is an obvious conflict of interest when a guaranty agency reviews the due diligence practices of its affiliated secondary market or loan servicer. In such cases, the guaranty agency's findings affect its own financial position. The close relationships between the FFELP service providers pose a significant risk that due diligence irregularities could occur and go unreported.

A Guaranty Agency Failed To Remain Independent. In one state, a guaranty agency that was not one of the twelve included in our review, contractually delegated all of its duties and functions to its affiliated secondary market. In February 1989, OSFA conducted a review of the guaranty agency and requested the refund of over \$1 million because the agency failed to follow due diligence requirements. The guaranty agency appealed OSFA's findings and requested that the Secretary waive the right to repayment because the financial cost would ruin its affiliated secondary market. ED denied the appeal and stated that the guarantor's regulatory violations were a matter between the guaranty agency and ED, regardless of the relationship between the guarantor and the secondary market.

The guaranty agency's appeal was clearly designed to protect the financial condition of its affiliated secondary market. It also demonstrates how the financial health of an affiliate may influence the decision-making of the guaranty agency.

The conflict was even more apparent in June 1990, when the same guaranty agency completed a lender review of its affiliated secondary market and reported numerous areas of noncompliance, including due diligence violations. However, the guaranty agency neither required the appropriate repayments resulting from the violations nor took action to ensure future corrective action. The guaranty agency's actions were even more egregious because it had contracted with the secondary market to review the secondary market's own claims and determine whether the guaranty agency should pay them.

About eight months later, in February 1991, OSFA conducted a review of the same

secondary market. OSFA found that the guaranty agency's prior review had not been appropriately resolved, and compelled the secondary market to formally address the findings. Only after OSFA's intervention did the guaranty agency assess a liability of over \$1.1 million against its affiliate. In our opinion, the guaranty agency's reluctance to enforce the Federal regulations clearly demonstrates that the interests of the taxpayers and those of its affiliate were in direct conflict.

AFFILIATIONS COMPROMISE THE INTEGRITY OF THE FFELP ELECTRONIC DATA

The administration of the FFELP requires a great amount of electronic data to pass between the lenders, the FFELP service providers, the guaranty agencies, and ED. This electronic data provides the basis for computing virtually all of the costs associated with the FFELP. It also provides ED with its primary means of monitoring the effectiveness of the program as a whole. Therefore, the integrity of the electronic data is essential to achieving the program's overall goals.

An important mission of the guaranty agency is to conduct lender and servicer reviews to ensure that there are adequate internal controls over computer generated data, and that the data is accurately transferred between entities. The guaranty agencies also review the accuracy and reasonableness of the fees and expenses computed by the automated systems.

ED and GAO have reported numerous problems with the accuracy and the completeness of the FFELP database. We believe that the conflicts of interest have contributed to the lack of integrity of the database because the guaranty agencies often have disincentives to identify and resolve systemic problems with the automated systems.

First, identifying the causes of the problems can be costly and often involves reviewing a system that the agency itself designed for its affiliate. Second, implementing the changes needed to improve the integrity of the data may place a financial burden on its affiliate. Consequently, the guaranty agency may conduct only cursory reviews of its affiliates in order to satisfy the Federal requirements, and ignore the underlying causes of the problems. In such cases, the guaranty agency may continue to accept and forward data of questionable accuracy in order to avoid the costly expenditures needed to ensure accurate and complete electronic data.

For example, ED OIG auditors conducted an assist audit of Guaranty Agency B for GAO. ED OIG auditors concluded that the guaranty agency's computer system was less accurate than the agency claimed it to be. When the auditors requested the guaranty agency to provide the dollar amount of loans in repayment, it initially computed the amount to be \$2.4 billion. Later, it revised the amount to \$2.2 billion, and finally to \$2.3 billion. The auditors concluded that the guaranty agency's revisions will impact future trigger figures. At the time, approximately 40 percent of the loans in question were serviced by the guaranty agency's affiliated loan servicer.

AFFILIATIONS MAY RESULT IN PREFERENTIAL TREATMENT

FFELP service providers contract with guaranty agencies and lenders to provide a myriad of services such as loan origination, loan servicing, collections, litigation, and other administrative functions. Often the service providers are for-profit corporations that are subsidiaries or affiliates of the guaranty agencies. The potential for abuse exists in such arrangements.

Guaranty Agencies May Give Their Affiliates Unfair Advantages. The guaranty agency is in the position to spin-off specialized companies and then provide the new company with a level of sales that increases its odds for success. For instance, a guaranty agency could exert undue pressure on its affiliated secondary market to use the services of its new for-profit loan servicer.

Approximately 42 percent of Guaranty Agency C's \$7.9 billion portfolio is handled by its servicing arm. Similarly, about 32 percent of Guaranty Agency A's \$9.1 billion portfolio is serviced by one of its affiliates. About 45 percent of Guaranty Agency G's \$4.1 billion portfolio is serviced by its affiliated loan servicer.

In another example, the Treasurer of Guaranty Agency B informed ED OIG auditors that it was successful in starting a new for-profit subsidiary without the infusion of capital. The guaranty agency was able to provide its new subsidiary with immediate cash flows from rent resulting from a building management agreement and from loan origination fees. According to the treasurer, the guaranty agency also permanently transferred some of its employees to the subsidiary.

Later, the same guaranty agency's CPA firm asserted in its working papers that the volume of transactions between the agency and its newly formed subsidiary was "excessive." The working papers also noted that the IRS may view the condition as undue favoritism towards a for-profit subsidiary. Such a relationship makes it more difficult for unaffiliated FFELP service providers to enter the market and compete.

Officers and Employees May Use Their Positions For Personal Gain. The guaranty agency's officers and senior management have direct control over how the guaranty agency delegates certain functions to outside companies. They also must determine the reasonableness of the fees charged by outside contractors for their services. In the same way a guaranty agency may exert pressure on an affiliate to use the services of another affiliate, officers may use their positions to exert pressure on the guaranty agency to use the services of certain companies that benefit the officers' financial positions.

For example, Guaranty Agency I joined forces with a secondary market to establish a management company. The guaranty agency and secondary market transferred all of their employees to the management company, and entered into a management services agreement with the new company. The Chairman of the Board for the management company that oversees the guaranty agency is also the President of the secondary market. This same officer is also 100% owner of a for-profit company that provided services to the guaranty agency and the secondary market. The President's personal corporation was paid over \$150,000 by the guaranty agency and over \$750,000 by the secondary market during the fiscal year ended September 30, 1991.

Although the President's corporation claims that it provides its services to the guaranty agency and secondary market at cost, it receives free rent in the building owned by the guaranty agency's management company and is allowed to bill unproductive time to the management company. With these benefits, the President's company has been able to successfully market its services in three other states.

Guaranty Agencies May Misuse Federal Funds. As long as guaranty agencies are allowed to start and operate FFELP service

companies, there is a risk that Federal funds may be used for purposes for which they were not intended. For example, a guaranty agency that was not one of the twelve included in our review improperly used \$3.1 million of its reserve fund to start and operate an affiliated, for-profit loan servicing operation. An ED OIG audit report concluded that the guaranty agency had misused the reserve fund and recommended that it refund the \$3.1 million to the reserve fund.

Guaranty Agencies May Absorb the Costs of For-Profit Affiliates. Guaranty agencies can also support affiliates by paying some of their expenses. As previously noted, guaranty agencies and their affiliates often share buildings, office space, computer equipment, furniture, and even employees. This allows the affiliates to incur owner expenses and to increase profits.

For example, from 1989 to 1991, Guaranty Agency B paid approximately \$768,000 in software development cost incurred by an affiliate that provided a specific service for the guaranty agency. Its agreement with that affiliate states the guaranty agency will continue to absorb the cost for the computer hardware, software, maintenance and enhancements incurred by its affiliate while performing this service. The affiliate is a for-profit corporation which earned approximately \$1.4 million by providing this and other services to the guaranty agency.

AFFILIATIONS MAY WEAKEN GUARANTY AGENCIES FINANCIALLY

As guaranty agencies subcontract more activities to affiliates, they could become shell corporations with fewer financial assets. Such an occurrence has many negative implications for guaranty agency reserves. Furthermore, ED may find it more difficult to recover misspent funds from the guaranty agencies if their revenue flows have been diverted to affiliates. Fees and income designated for the guaranty agencies assist them in continuing to carry out their mission and increasing their reserves. When these income streams are diverted to affiliates through subcontracting, the guaranty agencies' reserves may be reduced and the agencies' overall financial condition may be weakened.

For example, Guaranty Agency B delegated escrow account services to an affiliate. Federal regulations (34 CFR 682.408) allow the guaranty agency to act as an escrow agent for receiving FFELP proceeds and transmitting them to the borrower. In return, the guaranty agency may invest the proceeds of the loans and retain the interest that it earns on the float. This interest assists the guaranty agency to build up its reserves. The guaranty agency delegated the escrow function to a for-profit affiliate and allowed the affiliate to retain the interest on the float. The guaranty agency paid over \$400,000 of the costs incurred by its affiliate for operating the escrow system, but allowed its affiliate to retain over \$1 million in interest earned on the float.

CONFLICT OF INTEREST RULES ARE COMMON

Every organization needs to be confident that its employees are acting in the organization's best interest. To achieve this, many entities restrict their employees' activities in order to prevent those employees from having a conflict of interest.

In the Federal government, for example, Executive Order 11222 requires agencies to issue regulations governing standards of conduct for their employees. ED has issued its regulations under 34 CFR Part 73. Section 73.11(a)(1) states that an employee may not:

"Have a direct or indirect financial interest that conflicts, or appears to conflict, substantially with the employee's official duties and responsibilities * * *."

Further, Section 73.20 prohibits an employee from accepting gifts or favors from any person who conducts business or financial operations that are regulated by the Department or whose business or financial interests may be substantially affected by the employee's official duties.

State and local governments have similar prohibitions. For example, under California law:

"No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Professional organizations such as the American Bar Association, and the American Institute of Certified Public Accountants (AICPA) have adopted rules prohibiting their members from becoming entangled in business relationships that result in, or give the appearance of, a conflict of interest. Such rules are needed because much of their work involves issues of public trust.

An example of these conflict of interest rules is found in the AICPA's Code of Professional Conduct. That code requires accountants to maintain personal and professional business relationships that do not compromise their integrity and objectivity (Rule of Conduct 102). The AICPA has concluded that any member that holds a material financial interest in the client that is being reviewed has violated the principle of independence (Rule of Conduct 101).

The Securities and Exchange Commission (SEC), which relies on the accountant's independence when reviewing certain financial statements, has adopted related regulations that state:

"* * * an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates (1) in which, during the period of his professional engagement to examine the financial statements, * * * his firm, or a member of his firm had, or was committed to acquire, any direct financial interest or any material indirect financial interest * * *." (17 CFR 210.2-01(b))

The AICPA and the SEC have concluded that both the accountant and the accounting firm lose the independence necessary to render an objective opinion when the accountant has a material financial interest, or actively participates in the management of the client being reviewed.

Organizations that prohibit conflicts of interest do not assume that their employees or members are dishonest. Rather, they recognize that persons who are responsible for interests of more than one party are often placed in untenable situations. First, they have no clear guideline as to which of the conflicting interests should have priority. Second, even the appearance of a conflict of interest reduces public confidence in their actions. In the case of governmental employees or representatives, public confidence is essential.

ED relies on guaranty agencies to review the compliance practices of other organizations that do business with ED. The results of the guaranty agency reviews may significantly impact taxpayer funds. If ED prohibits its employees from having financial interests that create conflicts of interest, or even the appearance of a conflict of interest,

it should place similar prohibitions on agencies that have responsibility for ensuring appropriate actions in regard to billions of dollars of Federally insured student loans.

1992 AMENDMENTS ALLOW ED TO REQUIRE REPORTING OF INDIVIDUAL CONFLICTS OF INTEREST

ED is aware of the problems caused by the conflicts of interest between guaranty agencies and their affiliates. In fact, ED's recommendations for the Higher Education Amendments of 1992 (HEA) included language that would prohibit the officers and employees of guaranty agencies from having a financial interest in organizations that the agency is required to monitor. However, ED's recommendations did not prevail. Instead, the final version of the HEA only included a new reporting requirement. The provision requires certain paid officials of guaranty agencies, eligible lenders, and loan servicing agencies to report to the Secretary, if the Secretary should so require, any financial interest held in other institutions that participate in the FFELP.

The new provision indicates Congress's interest in identifying conflicts of interest, but it needs to be strengthened.

First, the new reporting requirement significantly increases the oversight responsibilities of the Department by requiring it to monitor the financial holdings of hundreds of officers and employees. ED officials informed us that the Office of Postsecondary Education is not in a position to handle the increased workload that the new provision requires without increasing staffing levels. Consequently, the new reporting requirement may not be implemented in the near future.

Second, the new provision stops short of prohibiting financial holdings that cause conflicts of interest.

Third, the new reporting requirement deals with only the financial holdings of individual officers and employees. The provision does not address the conflicts that arise when guaranty agencies have a financial interest in the institutions that they are required to monitor.

We believe that conflicts of interest could adversely impact the administration of the FFELP, regardless of whether the conflicts occur with individual officers and employees, or with affiliated agencies. In our opinion, prohibiting all affiliations, as described in the Recommendations section of this report, provides the best method of eliminating the potential conflicts of interest in the FFELP. It would also reduce the oversight burden of the new reporting requirement.

SUMMARY

The nation's guaranty agencies provide a critical oversight function on behalf of the Federal government. They must administer the FFELP objectively and efficiently. By affiliating with FFELP loan servicers, secondary markets, and other FFELP service providers, guaranty agencies often place themselves in the position of choosing between the interests of the taxpayers or their affiliates. The resulting conflicts of interest place billions of dollars of the FFELP portfolio at risk of mismanagement, waste, and abuse.

For many years professional organizations, Federal, state, and local governments have utilized conflict of interest rules to guard the public trust. ED prohibits its employees from having financial interests that create conflicts of interest, or even the appearance of a conflict of interest. We believe that ED should place similar prohibitions on guar-

anty agencies that are responsible for ensuring appropriate actions in regard to billions of dollars of Federally insured student loans.

RECOMMENDATIONS

We recommend that the Department amend its regulations, or, if necessary, seek legislative change to:

1. Prohibit guaranty agencies or their officers and employees from having any affiliation with an entity that is a participant or a service provider in the FFELP. Participants in the FFELP include the guaranty agencies, lenders, secondary markets, and eligible postsecondary institutions. FFELP service providers include entities that provide services that support the originating, servicing, and collecting of Federally insured loans.

2. Develop timetables for the guaranty agencies and their officers and employees to divest themselves of their current holdings or to legally separate the guaranty agency from its affiliates.

OTHER MATTERS

This memorandum was prepared in accordance with those GAO standards which the Inspector General has determined to be applicable to Management Improvement Reports. The work conducted on this issue does not constitute an audit.

We would appreciate your views and comments concerning our recommendations within 30 days of the date of this report. If you have any questions, or would like to discuss the report, please call me.

SEFTON BOYARS.

ATTACHMENT B

CRITERIA FOR AN AFFILIATION

We contacted twelve guaranty agencies and requested that they provide us with information about their relationships with loan servicers, secondary markets, and other FFELP service providers. Additionally, we contacted officials from ED and GAO, and reviewed numerous reports prepared by ED and independent CPA firms. Of the 12 agencies that we selected for review, 9 were affiliated with FFELP firms that they are required to monitor, and thus, have a potential conflict of interest. For the purposes of this review, we defined an affiliation as:

An organizational setting where, regardless of each firm's legal structure, a loan servicer, secondary market, other FFELP service provider, or any combination thereof, reported to the same senior management staff or board of directors (or its equivalent) as the guaranty agency.

An organizational setting where, regardless of each firm's legal structure, a loan servicer, secondary market, other FFELP service provider, or any combination thereof, shared at least one of its senior management staff or board of directors (or its equivalent) with the guaranty agency.

An instance where the guaranty agency, its parent, or management company held an ownership interest in, or was a member of (in the case of a nonprofit corporation), a loan servicer, secondary market, or any other organization that provided services to the FFELP.

An instance where an official of the guaranty agency, its parent, or management company held an ownership interest in any organization that provided services to the FFELP.

We recognize that some organizations that have a potential conflict of interest manage to prevent the conflict from harming the FFELP. However, our discussions with program officials revealed that those organizations that successfully manage the potential

conflicts generally do so because of the efforts of key managers and employees. Consequently, replacing these key individuals with less conscientious managers and employees may significantly increase the risk of abuse.

SPECIFIC AFFILIATIONS THAT WE OBSERVED

The following paragraphs briefly discuss the organizational environment that exists at each guaranty agency we reviewed. Since the organizational structures are often very complicated, we have limited our discussion to a general overview. The guaranty agencies discussed in the following paragraphs correspond to those listed in the schedule found in Attachment A and the matrix shown above.

GUARANTY AGENCY A

This guaranty agency has a parent corporation that operates the guaranty agency, a loan servicer, and a secondary market as separate corporations under its umbrella. Each of the four corporations has a separate board of directors. However, at least one individual serves on all four boards, and several individuals serve on three of the four boards. Additionally, at least two individuals serve as officers in all four corporations, and several individuals serve as officers in three of the four corporations.

Until November, 1992, the secondary market activity was a departmental function of the guaranty agency. In November 1992, the secondary market was incorporated as one of the above mentioned companies. The guaranty agency plans to transfer some of its employees to its newly formed secondary market.

Approximately 84 percent of the secondary market's portfolio, and 79 percent of the loan servicer's portfolio are guaranteed by their affiliated guarantor.

GUARANTY AGENCY B

This guaranty agency underwent sweeping organizational changes in 1992. At the time of our review the changes were not completely finalized. Generally, the end result will be a management company which operates 1) a guaranty agency, 2) a nonprofit FFELP service provider that provides supporting services such as account management, litigation services, and loan disbursement services to the guarantor, and 3) a for-profit FFELP service provider that provides some of the same supporting services to the guarantor as its nonprofit counterpart. The new management company owns all of the stock of the for-profit FFELP service provider, and the two corporations share at least one board member.

The above corporations work very closely with three other organizations that were previously founded by the guaranty agency. These three firms are 1) a loan servicer, 2) a secondary market, and 3) an educational resource firm. Although the secondary market and the educational resource firm were legally separated from the guaranty agency, they continue to share common board members with the new management company mentioned above. The management company holds 25 percent of the stock of the loan servicer, and the two corporations share board members.

Approximately 55 percent of the secondary market's portfolio, and 69 percent of the loan servicer's portfolio are guaranteed by their affiliated guarantor.

GUARANTY AGENCY C

This guarantor, along with a loan servicer and secondary market, is operated as a division of a larger agency. There is no separate

legal structure for the guarantor, loan servicer, or secondary market. All three divisions report to the same senior management and board of directors. Approximately 71 percent of the secondary market's portfolio, and 60 percent of the loan servicer's portfolio are guaranteed by their affiliated guarantor.

GUARANTY AGENCY D

This guaranty agency is operated by a state commission that is appointed by the Governor. The State Commission, along with its Executive Director, is responsible for operating the guaranty agency and the secondary market. The State Commission has only one board of commissioners to oversee the guaranty agency and the secondary market.

Approximately 99 percent of the secondary market's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCY E

This guaranty agency is a component of a state authority that manages all the Federal and state student loan programs. A separate state authority operates the secondary market. However, the management and board of the two authorities are the same.

Approximately 100 percent of the secondary market's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCY F

This guaranty agency is housed together with a loan servicer at the same state agency. There is only one board of commissioners for the guaranty agency and the loan servicer, and both are served by the same senior management staff.

Approximately 100 percent of the loan servicer's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCY G

This guaranty agency is a division of a larger corporation. The corporation has a guaranty agency division and a FFELP servicing division. The guarantor and servicer are managed by separate corporate vice presidents. The president of the corporation also holds the offices of Chairman of the Board of Directors, Chief Executive Officer, and Treasurer.

Approximately 100 percent of the loan servicer's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCY H

This guaranty agency provides FFELP servicing to participating lenders and secondary markets. The loan servicer is part of a division of the guaranty agency that reported to the Senior Vice President of Operations. The guaranty agency claims that it began phasing-out its loan servicing activities in the spring of 1989. However, it still retains a significant servicing portfolio.

Approximately 95 percent of the loan servicer's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCY I

This guaranty agency has a parent company that is the sole member (or shareholder) of both the guaranty agency and the secondary market. In this case, all three organizations are separate nonprofit corporations. The parent company is the employer with respect to virtually all of the staff of the guaranty agency and the secondary market, and provides the staff to its subsidiaries under a management contract.

The three companies have separate boards. However, the two presidents of the guaranty agency and the secondary market also serve on the board of the parent company. In fact, the Chairman of the Board of the parent

company is also the president of the secondary market. This same person is the 100 percent owner of a for-profit company that was paid approximately \$900,000 in 1991 to provide services to the guaranty agency and the secondary market.

Approximately 52 percent of the secondary market's portfolio is guaranteed by its affiliated guarantor.

GUARANTY AGENCIES J, K, & L

Our inquiries did not lead us to conclude that the above guarantors were affiliated with a loan servicer, secondary market, or other FFELP service provider.*

AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE U.S. SENATE

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to Senate Resolution 87, submitted earlier today by Senator DOLE, and that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 87) was agreed to, as follows:

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the National Geographic Society to photograph the United States Senate in actual session on a date and time to be announced by the Majority Leader, after consultation with the Minority Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

MEASURE READ FOR THE FIRST TIME—H.R. 988

Mr. GREGG. Mr. President, I inquire of the Chair if H.R. 988 has arrived from the House of Representatives.

The PRESIDING OFFICER. It has arrived.

Mr. GREGG. Therefore, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 988) to reform the Federal civil justice system.

Mr. GREGG. I now ask for the second reading, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. The bill will remain at the desk to be read a second time following the next adjournment of the Senate.

ORDERS FOR MONDAY, MARCH 13, 1995

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in recess until the hour of 12:30 p.m. on Monday, March 13, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for transaction of morning business not to extend beyond the hour of 1:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I further ask unanimous consent that, at the hour of 1:30 p.m., the Senate resume consideration of H.R. 889, the supplemental appropriations bill; further, that at the hour of 4:30, the Senate begin 60 minutes of debate, equally divided between Senator KASSEBAUM and Senator KENNEDY; and that the vote occur on the motion to invoke cloture at 5:30 p.m. and the mandatory live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GREGG. Mr. President, for the information of my colleagues, under the previous order, there will be a cloture vote on the pending KASSEBAUM amendment at 5:30 on Monday. Senators should also be aware that further rollcall votes are expected during Monday's session of the Senate.

OFFICIAL PHOTOGRAPH OF THE U.S. SENATE

Mr. GREGG. Mr. President, the official photograph of the U.S. Senate in session will be taken by the National Geographic Society on Tuesday, April 4, 1995, at 2:15 p.m. All Senators are now on notice to be on the floor at 2:15 on April 4 for the picture.

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that, following the remarks of Senator EXON, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRIKER REPLACEMENT

Mr. EXON. Mr. President, next week I will be introducing a bill with regard to striker replacement. This is the same bill that I have introduced previously in this body.

I discussed this possible compromise that would maybe put an end, hopefully, to the ongoing battle we have had now for many years in the U.S. Senate. I discussed this with the chairman of the committee of jurisdiction, Senator KASSEBAUM, earlier today. I understand we will be having a cloture vote on this matter on Monday.

I would simply say to my colleagues on both sides of the aisle and on both sides of this issue that I think it is not good form, it is not good business, and it upsets the routine schedule of the Senate when matters of this nature, however important they are, and however timely they might be, should never, ever have been placed on the supplemental appropriations bill with regard to national defense that is before the body.

For the life of me, I do not understand why the managers of the bill or those in opposition did not simply make a point of order that it was legislation on an appropriations bill, which it clearly is. Had that point of order been made, I would hope that the matter would have fallen.

Let me say, Mr. President, that I have voted for and will continue to vote for some type of a striker replacement bill. What we have, of course, is the traditional battle: The old bulls of business on one side of the pasture, and the old bulls of organized labor on the other, glaring and pawing at the turf and snarling at each other across the pasture.

All too often we do not take into consideration, I think, what is in the interest of the United States of America as we go into the international arena, the international pasture today, and certainly into the new century that is almost here. We see the quarrelsome gestures and the rhetoric about how fair or unfair this is to different groups of Americans, depending how they are postured on this particular matter.

Senator DOMENICI was on the floor earlier this week, and I spoke after he spoke with regard to the fall of the dollar and what caused that and how serious it is. I agreed with all of that.

I simply state once again that I think the matter of the fair treatment of laboring people who are organized in the United States of America is something that we should continue to address and not just simply continue with actions on the floor of the U.S. Senate that I believe, for all meaningful purposes, are designed to end the rights of organized labor and the rights of collective bargaining.

Some will say that is an overly harsh statement, but I think that is the reality of the situation. And I suppose

that businesses today feel that with the advent of the Republican majority in the U.S. Senate and the House of Representatives that they could sit back, take a sigh of relief and say it shall not pass with the revolution that took place last November.

That might well be. They may have their facts straight. Is not what I think should be a different and reasoned approach. Likewise, the organized labor should realize and recognize that the United States of America is now very much tied up, more so than they have ever been before, with the economies of the whole world. The new century that is about to come upon us, I suggest should best be recognized that we should be looking over the horizon, if we will, aside from the facts that we always have on measures of this nature.

The economy of the United States of America is tied more tightly to the international community—the whole globe—than it ever has been before. Many people, including this Senator, had thought that would probably be good for the United States of America. Maybe in the end it still might be.

Suffice it to say that when we are tied to the international community with trade agreements, trade treaties, NAFTAs, and GATT's, and all of these things, it is a small wonder that the dollar is not reacting well.

It is no small wonder, Mr. President, that there is nervousness in the international economic and fiscal community today, with the problems of the border with our neighbor to the south, just across the border in Mexico, and certainly the Mexico bailout proposition—call it what you will. Whether it is necessary or whether it is not, whether it is good or whether it is bad simply proves the point that I am making, that the United States of America is tied into the economic structure of the world more so than it ever has been before.

When we are doing these kinds of things, we should not be, therefore, particularly surprised when we see different things happening in different parts of the world and investors in different countries of the world moving money about, the super moneychangers of the world today for safety reasons and to get the best return on their investment.

So I think we are going to be involved in a rather uncertain period and it might all work out well.

That is why I think it was not wise for the President of the United States to take the action that he took by Executive order the other day with regard to penalizing certain companies or corporations that do business with the Federal Government with regard to replacement of workers. I thought that was an untimely move by the President. I am not a lawyer, but I suspect, in the end, the courts might decide he did not have that authority.

But whether the President did or did not certainly has brought up the firestorm that has taken over the Senate for the last few hours. The President did not consult with me before he took that action, nor is he required to do so, except to say I think we have enough to quarrel and worry about on the floor of the U.S. Senate today without getting a labor matter involved in a supplemental appropriations bill. It should never have come up on this measure. I wish that I had an opportunity to make a point of order against this, and probably that, hopefully, would resolve it. In any event, it has brought the matter of striker replacement up to this Senator once again, and I hope that is not going to be dealt with on an appropriations bill, especially the one before us now which needs to be moved.

Therefore, in the effort and sounding for compromise, once again, I am going to briefly talk about a bill that I will be introducing next week that I have introduced before, which I think if big management and big labor would take a look at and if both sides—both quarreling sides—in the U.S. Senate would take a look at it, they would see that the compromise offered by the Senator from Nebraska, if enacted, might put to rest this contentious matter that keeps bubbling to the surface of the floor of the Senate and the floor of the House with regard to striker replacements.

I would like to say, Mr. President, that it is very clear to me after looking at the situation in my great State of Nebraska today, we have an extremely low unemployment rate, one of the lowest in the Nation. I think the last unemployment rate in Nebraska was 2.3 percent. That does not mean that the people of Nebraska are being overpaid.

The facts of the matter are, we have a great number of college graduates today who are not able to find work in their desired type of employment, not able to find work that complements the degrees and studies that they receive from our various high-quality institutions of higher learning. That is another way to say that I think probably the main problem in Nebraska today, with our economy that otherwise is reasonably healthy, is that we have a great number of underemployed people in the State of Nebraska, many of them doing things that they are not trained for or ever sought to do in their early lives and during their educational experience.

Part of this has to do with the fact that there is great instability today of employment. The record is replete with big businesses, for whatever reason and probably some of them are justified, laying people off when they get to be 50 or 55 years of age, just about the time that they were set for life.

And at 50 and 55 years of age, they are not particularly attractive to many

businesses for the jobs that at least pay something akin to the salary that they have been used to in their adult lives up to this period of time.

So I happen to feel that if we are going to be competitive in the world internationally in the next century, we had best set about some procedures that can solve the problems that we have in America today, the problems that labor sees, the problems that management sees and try to get these two sides together.

The bill that I am introducing is a compromise that I have alluded to. It is not a complicated piece of legislation at all. It simply says that under the Federal law, if it were adopted—and it would have to be a compromise; and this compromise is not accepted by big labor, they do not like it; it certainly is not accepted by big business, they do not like it—but it simply says as a compromise in trying to put an end to this, that for the first 60 days of a strike in an organized plant, the management of that company would not be allowed to hire permanent replacements. They could hire temporary people, but for the first 60 days of any legal strike that was called by an organized client under our collective bargaining laws today, management could not rush in and send the clear signal that if the people who had the right to strike do not show up, their job is going to be taken on a permanent basis by the first person that walks in the door or makes an application.

For the life of me, I have never been able to understand those who say they believe in collective bargaining and then turn right around and say, "but if the unionized plant goes on strike, management has the option at their discretion to say, 'OK, we'll hire somebody else to take your place.'"

Any reasonable person that believes in collective bargaining would have to agree that if organized labor does not have the right to strike, and organized labor does not use that promiscuously, but if they do not have the ultimate right to strike, the collective bargaining that they go through from time to time is heavily stacked against them because all of the chips for bargaining are on management's side of the table.

Now, on the other hand, let me take the devil's advocate position, if I might, for a moment with regard to unions and union membership and union leadership. I also feel that union labor and union leaders must also recognize that we are in a new era. I do not believe that we should simply pass

legislation that permanently prevents management from ever hiring a replacement worker under any circumstances.

If you accept that point of view fully that organized labor pushes, which I do not agree with, that will simply mean that if organized labor never will agree to a contract, somewhat along the lines we are seeing in the baseball impasse today, then organized labor would be able to close down and eliminate a factory forever. I do not think they should have that power either.

Mr. President, the compromise that I am offering, that I emphasize is detested by management and it is detested by the leadership of organized labor, would simply reach a compromise by saying for the first 60 days of an organized strike management would be prevented from hiring permanent replacement workers. Again, I emphasize they could hire temporary workers but not permanent replacement workers. The first 60 days they could not do that. At the end of 60 days, the compromise would kick in, and for the first 30 days after 60 days management would be allowed to hire 10 percent of their work force as permanent replacements.

It goes up from there to 20 percent in 90 days, 30 percent in 120 days, and it goes on up to the end of 1 year, 360 days. If no settlement has been reached, then in that event and that event only would management be permitted to have total replacement of all the workers that went on strike.

Putting it another way, this is simply a phased program to try to satisfy what supposedly is the beliefs of both big labor and big management without taking a look at what is good for the overall economy of the United States of America and the competition that I suggest we are likely to have from around the globe with the turn of the century, as exhibited by the difficulties that we are having right now with regard to fiscal and monetary policy and the fall of the dollar and all the problems that could and probably will cause in the United States by further increasing interest rates. And some have alluded to the fact that, indeed, that could push us into a recession that no one had previously contemplated.

So I am saying, Mr. President, the votes I will be casting on this whole matter of striker replacement are in an effort to get myself into a position to hopefully bring along the Senate to stop shouting at each other, to quit listening to the dictates of big labor only

and big management only and do what I think is right for America. And I have to think the Exon proposal should satisfy well meaning and well-intentioned individuals on both sides of this very contentious problem and maybe get on to lay this matter to rest and have labor peace and management peace in the years immediately ahead when I think the United States of America is very likely to set its course as to whether or not we are going to be as successful in the new century as we were in the last.

Mr. President, I am simply appealing for reason. I am only making these comments so I can explain to my colleagues the position that this Senator has on this matter, and I will be introducing the bill that I have briefly described next week so that all can look at it. I was very pleased to hear Senator KASSEBAUM, the chairman of the committee of jurisdiction, since she did not know about this piece of legislation. I do not think anybody else does either, because nobody will pay any attention to a compromise, although I have introduced this piece of legislation before and talked to some Senators about it—maybe, just maybe, Mr. President, something like this might be the bounds to stop the inflammatory rhetoric that is going on now, that is holding up the passage of the defense supplemental, which needs to be enacted into law. And we all agree on that. Yet we get off on what I think are these nonsensical maneuvers and rules to force some people's will on what should be done at a very inappropriate time.

I thank the Chair and I yield the floor.

RECESS UNTIL 12:30 P.M. MONDAY,
MARCH 13, 1995

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12:30 p.m. Monday, March 13, 1995.

Thereupon, the Senate, at 5:05 p.m., recessed until Monday, March 13, 1995, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate March 10, 1995:

DEPARTMENT OF AGRICULTURE

DANIEL ROBERT GLICKMAN, OF KANSAS, TO BE SECRETARY OF AGRICULTURE, VICE MIKE ESPY, RESIGNED.